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THE
CHELTENHAM IMPROVEMENT ACT,
1852,

WITH NOTES,

AN APPENDIX,

CONTAINING THE PUBLIC BATHS AND WASH HOUSES AND OTHER
ACTS, THE PROVISIONS OF WHICH THE CHELTENHAM
COMMISSIONERS ARE EMPOWERED TO
CARRY OUT OR ENFORCE, ETC.

ANALYTICAL INDEX, AND PLAN OF CHELTENHAM,

Shewing the Wards and System of Sewerage,

BY SEPTIMUS PRUEN,
SOLICITOR.

Cheltenham :
W. PAINE, PRINTER AND PUBLISHER.
1853.



P R E F A C E .

COMMISSIONERS, owners, ratepayers, and occupiers in Cheltenham have unanimously agreed that "The Cheltenham Improvement Act, 1852," ought to be printed, with all the sections and parts of other acts incorporated or made applicable, in extenso.

The commissioners have postponed the printing on the score of expense and want of funds, reasons which may probably hold good for a long period ; and the labour and expense have hitherto deterred private individuals.

It may seem bold to attempt that, which the commissioners have postponed even the consideration of, and private individuals have feared to approach ; but no one will consider an apology necessary for any such attempt.

The Cheltenham Improvement Act contains 136 sections, besides incorporating into it, by reference only, 106 from the two Public Health Acts, 45 from the Commissioners' Clauses Act, 36 from the Towns Improvement Clauses Act, 58 from the Town Police Clauses Act, 23 from the Cemeteries Clauses Act, and 130 from the Lands Clauses Consolidation Act ; and empowering (by reference only) the commissioners to exercise the provisions contained in the Public Baths and Wash-houses Acts, which incorporate the whole of the Lands Clauses Consolidation Act, and contain 49 sections ; and making applicable to the purposes of the act the provisions of the Poor Rates Recovery Act (containing 8 sections), the provisions of the Nuisances Removal Act (containing 38 sections), and the provisions in the act for protecting justices on issuing distress warrants for poor rates ; thus in effect, incorporating into the Cheltenham Improvement Act the remaining 23 sections of the Lands Clauses Consolidation

Act, and 96 sections from other Acts; making the Cheltenham Improvement Act contain a grand total of about 653 sections, besides the schedules to the act, incorporating portions of the schedules in the other acts mentioned.

This mere reference to its contents will shew the magnitude of the act of parliament under which the inhabitants, &c. of Cheltenham are governed, and how insufficient for any purpose must be the Queen's printer's copy of the act, which only sets out in full 136 out of the 653 sections, leaving the reader to wade through several other acts of parliament, to know what the other 517 sections enact, not even affording an analysis of such sections.

It is natural to suppose that weighty and cogent reasons existed for the necessity of such a monster act, which required numerous and lengthy meetings of a committee of some forty gentlemen of the town, and two succeeding sessions of parliament to elaborate and pass into law.

Most of the parties promoting the Cheltenham bills of 1851 and 1852, considered that many local peculiarities rendered it highly important that a local act should be obtained in the first place, in preference to a provisional order under the Public Health Act. Under the provisional order it was contended,—that a great part of the parish would still continue unrateable, under the proviso in section 88 of the Public Health Act, which proviso is excepted from the present act, see page 142 (*note*);—that the rentcharges, somewhat peculiar to Cheltenham, for the repairs, &c. of private roads, sewers, &c. would continue payable, though the roads, sewers, &c. were given up to, and repaired by, the public; (the present act effects an equitable arrangement of those rent charges, see sections 46, 47, 48, &c.);—that the sewers and water-works companies would still be unable to dispose of their works, &c., which the present act now enables them to do, see section 32 page 47, and section 68 page 93;—that the fairs and markets would still be held in our streets, against which the present act has provided, see sections 83, &c. page 120;—that

no public cemetery could be established, or provisions made for closing over crowded burial grounds, for which the present act provides, see the 97th and following sections, page 126 et seq. ;—that the turnpike roads would still be beyond the jurisdiction of the governing body, which is arranged in the present Act, see section 57, page 72 ;—that main sewers, tanks, &c. for the proper sewerage of the town, or equivalent to those contemplated by the present act by section 34, &c., page 49, &c., could not be made ;—that the Chelt and other streams could not be cleansed, as provided by the 38th section of the present act, see page 54 ;—that nothing which was not contained either in the Public Health Acts or the previous Local Act, could be inserted in the provisional order ;—and last, not least, that under a provisional order the old body of commissioners would still continue with a local board for drainage and sanitary purposes by their side. Other reasons were pressed, but the foregoing were the principal, and to effect these objects, some £4,000 or more was expended, for nearly two years the town was submitted to local excitement, equal in some respects to that arising from political contention, and the present model act passed. Numerous were the supporters of a provisional order, and such supporters had proceeded far towards obtaining the order, but many of them appeared to admit that a provisional order could not effect all the above mentioned objects, and as many and influential parties opposed the order, its supporters considered that if those parties co-operated with them in endeavouring to obtain a new local act, even that expense, and that excitement above referred to, nay, the model act itself, would be a lesser evil than continuing the late self-elected and self-electing body of commissioners holding jurisdiction over various and often detached parts of the town, while the surveyors of the different hamlets and private parties held jurisdiction or quasi jurisdiction over other parts of the town. Thus, the real question whether a provisional order or a new act would be the best for the town was never fairly determined, but by the supporters of a provisional order that question was allowed to be passed by, in order to unite all parties and get

rid of the objectionable self-elected and self-electing governing body. Numerous supporters of a provisional order thus yielding, nevertheless contended, and with great show of reason, that many, if not most, of the objects above enumerated could be effected by a provisional order, such as ;—the rating of the private estates, &c. which many sound and able lawyers contended could have been done under the old town act, and therefore the famous proviso in section 88 never would have applied ;—the retention of such parts of our late local act as were good, the repeal of such parts as were not suited or required alteration, and the extension of the act to the whole borough ;—the making provisions for a new cemetery, and perhaps under more equitable arrangements, and closing over-crowded places of interments, &c. ;—the proper drainage of the town, if not the very system adopted by the present act, under the 45th, 46th, and other sections of the Public Health Act ;—the proper and efficient cleansing of the Chelt and other streams and ditches ;—the total dismissal of the old commissioners and the creation of a new governing body, having jurisdiction over the whole parish, and elected under somewhat more liberal clauses than the provisions of the present act, and without the infliction on the ratepayers of a body nominated before hand ;—the incorporation of any portions of any of the famous Consolidation Acts, so many sections of which are incorporated with the present act ;—the purchase, regulation, &c. of the markets and fairs ;—and many other subjects not contemplated by the opponents or perhaps supporters of a provisional order. Some contended that the rent charges might have been equitably settled. And last, not least, the promoters of a provisional order contended that its cost would scarce exceed £200, an argument which their opponents could not gainsay ; the last returns of the General Board of health shew that the average cost of applying the Public Health Act has been £108 16s. 8½d., while the average expense of Local Acts, as taxed, has been £1,627 12s. 5d. The provisional orders already passed through Parliament have exploded the idea, held so tenaciously by the principal

promoters of the Cheltenham act, that nothing but what was contained in the Public Health Acts or the Local Act could be incorporated into a provisional order, and have strengthened very materially the opinions of many, that most, if not all of the present local act could have been inserted in a provisional order; and that the powers, which justified the incorporation of parts of the Consolidation Acts (foreign in some respects to the Public Health Acts) into a provisional order, would have justified the insertion of matter not contained in such Consolidation Acts; or, that at least if there be nothing in the Public Health Acts which directly authorised the insertion into a provisional order of such last mentioned matter, it must be fairly admitted there is nothing in the Public Health Acts which directly or indirectly authorised the insertion into any provisional order of any parts of any of the Consolidation Acts, except the Lands Clauses Consolidation Act. Supposing the provisional order could not contain all that the present act contains, time alone must show if it were worth laying out upwards of £4,000 in obtaining the difference, it would be almost rash to hazard an opinion at the present stage of affairs, though it may be fairly admitted that at the first blush, grave doubts may be entertained if the difference were worth the enormous outlay.

The Cheltenham Improvement Act has been styled a model one; whether it is to remain unique and uncopied, or to be the example and type for future local legislation, time alone must show. Its first aspect is certainly more terrifying than inviting. That the act contains most important and useful provisions nobody can deny; that it has abolished the wretched system of self-elected Government lately ruling in Cheltenham everybody rejoices at; that it will be of service in guiding other Towns in drawing their Local Acts, is evident; that it does not contain so much of novelty in matter as may be imagined by some, a reference to the Bill proposed to Parliament by the late Commissioners would easily prove; that its promoters themselves did not look to novelty in matter, or indeed to method, the fact of so much of other acts

being adopted will abundantly evince; and that it should be without defects, or should accomplish all that its promoters desired or intended, its most ardent admirers could hardly expect. The future alone must be the medium through which its merits or demerits must be tried and judged. For originalty as a grand whole, for simplicity of method and division, for numerical force of sections, for extent and variety of powers conferred on the governing body, the act may fairly claim to stand alone on the Statute Rolls of the United Kingdom, and much credit is due to the learned and pains-taking Counsel (Mr. Gael), who embodied into form and shape the varied and multitudinous wants and conceptions of the many minds engaged in collecting and suggesting materials for this monster Act of Parliament. That many interests and powers had to be consulted, and their demands met or adjusted, may account for some objectionable parts. As a whole it cannot be denied that the act bears evident proofs that the interest of the general body of the rate-payers has been consulted. That the act may be worked beneficially, economically, and well, is the wish of the humble individual who has endeavoured to gather into one view its immense mass of matter, scattered through so many Acts of Parliament, and to offer the result of his endeavours to his fellow Parishioners.

Such remarks and notices only have been made as were deemed practical, or would serve some good end.

The work might have been "got up", as it is termed, on a cheaper principle, but it is hoped the present act will prevent a repetition of the scenes enacted during the progresses of the Bills of 1851 and 1852 through Parliament, and that as the act, when once printed in extenso, might become a standard Cheltenham work, it was thought that that standard should not be reared on a principle of false economy.

The plan adopted in printing the act has been to set out in large type (the type in which this preface is printed) an exact transcript, (in capitals, punctuation, &c. &c.) of the Queen's printer's copy, and setting within the margin in a smaller type

and like exact transcript, the various sections and provisions incorporated or made applicable from other acts, according to the order of incorporation or reference, except the Two Public Baths and Wash-houses Acts, and the Two Nuisances Removal Acts, which are not incorporated with the Cheltenham Act, but made applicable, and except the Lands Clauses Consolidation Act, nearly all of which is incorporated by different parts of the Local Act, and which five acts it has been thought best to print in extenso in the Appendices Nos. 1, 3, and 6, and refer to them in the parts of the Cheltenham Act which relate to them. For reasons mentioned in the note to page 71, the Highway Acts have not been added to the appendix. The two acts relating to lodging houses are not referred to in the act, but as the commissioners can exercise the powers therein contained, such acts are set out in the appendix, No. 2, and the Common Lodging Houses Act of the present year has been passed in time to form No. 8 in the appendix.

The Public Baths and Wash-houses and the Lodging Houses Acts incorporate certain parts of the Railways and Companies Clauses Consolidation Acts, such clauses have therefore been added in the appendices numbers 4 and 5. The Hackney Carriage and Wheel Chair Bye-laws have been issued in time to form No. 7 in the Appendix, and the act of this present year, altering the mode of borrowing, &c. money from the Public Works Loan Commissioners, has been added in Appendix, No. 9. Each number in the Appendix is preceded by a reference to the part in the local Act to which it refers, if mentioned or referred to in such Act, or a short reason given for its insertion. A full, and it is hoped, useful index to the whole Act and its incorporated parts has been added, showing at one view the reference to the sections of the original and incorporated Acts, and the page of the book; the matter in the appendix has not been referred to in such index further than a general reference to the acts, &c. set out in such appendix, that the searcher for the contents of the local Act may not be embarrassed.

The work is preceded by the table of contents taken from the parliamentary agent's copy of the bill, to which is now added a table of the sections of the local act and every incorporated section, and of the acts in the Appendix with references to the pages where they are inserted. A skeleton map of the town of Cheltenham (shewing the wards, the lines of sewers, and the tanks required to be made by the act, and the lines of sewers belonging to the Cheltenham Sewers Company) has been kindly supplied by Mr. Dangerfield, the Borough Surveyor, based on that gentleman's elegant little map, (afterwards published by Mr. Harper) but extended to embrace the main sewers, tanks, &c.

In preparing this work novelty was not desired, every advantage to be derived from works on the Public Health Acts (especially Mr. Lawes's) has therefore been freely taken.

S. P.

September, 1853.

30, Cambray, Cheltenham.

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ERRATA AND ADDENDA.

Page.	Line.	
41	10	(note) After "Commissioners" insert " <i>for extraordinary purposes.</i> "
58	9	Read "or" for " <i>of</i> " before "if any such."
87	2	Read "for" for " <i>or.</i> "
165	11	Refer to Appendix, No. 9, page 358 as to the mode of borrowing, &c. money from the Public Works Commissioners
166	2	Read "in" for " <i>on</i> "
178	2	(note) Read "10th Line" for " <i>6th Line.</i> "
207	12	Read "in" for the first " <i>of.</i> "
262	1	Read "be" for " <i>he.</i> "

THE
CHELTENHAM IMPROVEMENT ACT,
1852.

ANNO DECIMO QUINTO
VICTORIÆ REGINÆ.

CAP. L.

AN ACT FOR BETTER PAVING, DRAINING, LIGHTING, CLEANSING, SUPPLYING WITH WATER, REGULATING IN REGARD TO MARKETS, INTERMENTS, HACKNEY CARRIAGES, AND OTHER PURPOSES, AND OTHERWISE IMPROVING THE BOROUGH OF *CHELTENHAM* IN THE COUNTY OF *GLOUCESTER*. [28th May 1852.]

WHEREAS an Act was passed in the Session of Parliament held in the First and Second Years of the Reign of King George the Fourth, intituled *An Act for better paving, lighting, cleansing, watching, and improving the Town of Cheltenham in the County of Gloucester, and for regulating the Police thereof, and for removing and preventing Nuisances and Annoyances therein*: ^{1 and 2 G 4. c. 121.} And whereas the Powers and Provisions of the said recited Act have been found insufficient for the Purposes thereby intended to be effected, and it is expedient that the same should be repealed, and that more effectual Powers should be granted in lieu thereof, and that Provisions should also be made for regulating Markets and Fairs, and Interments, and otherwise for the Improvement of the Borough of *Cheltenham*: And whereas such Objects cannot be effected without the Authority of Parliament: May it therefore please Your Majesty that it may be enacted; and be it enacted by

(Section 1.) the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

Recited Act
1 & 2 G. 4.
c. 121. repealed.

All Books kept
under 26 G. 3. c.
116., 46 G. 3. c.
117., and 1 & 2 G.
4. c. 121. to be
still Evidence.

Arrears of Rates
to be paid.

Collectors, &c. to
account for and
deliver over Pro-
perty to Commis-
sioners under
this Act.

Existing
Contracts to
subsist.

I. That from and after the passing of this Act the said recited Act of the First and Second Year of the Reign of His said late Majesty King *George* the Fourth shall be and the same is hereby repealed : Provided always, that all Books of the Commissioners for executing a certain Act of Parliament passed in the Twenty-sixth Year of the Reign of King *George* the Third, intituled *An Act for paving the Footways and Passages in the Town of Cheltenham in the County of Gloucester, and for better cleansing and lighting the said Town, for taking down certain old Buildings now standing therein, and for removing and preventing other Encroachments, Nuisances, and Annoyances*, and an Act passed in the Forty-sixth Year of the same Reign, intituled *An Act for amending and enlarging the Powers of an Act passed in the Twenty-sixth Year of His present Majesty, for paving the Footways and Passages in the Town of Cheltenham in the County of Gloucester, and for better cleansing and lighting the said Town, and for removing and preventing Nuisances and Annoyances therein*, and the said recited Act hereby repealed, or either of them, and all Entries therein made, according to the Directions or Provisions of the said Acts or either of them, and made Evidence thereby, shall and may be given and admitted in Evidence in all Courts, and by all Judges, Justices, and others ; and that all Persons from or by whom any Rates or any Arrears of Rates laid or assessed by virtue of the said recited Act hereby repealed are due or unpaid at the Time of passing this Act shall be liable to the Payment thereof to the Commissioners for executing this Act, and such Rates may be recovered from such Persons in the same Manner as the Rates by this Act granted may be recovered by virtue of this Act ; and that each and every Treasurer, Clerk, Collector, or other Person in whose Custody or Control any Money received or collected under the said recited Act hereby repealed, or any Books, Papers, Documents, Materials, or Things of the Commissioners acting thereunder, are at the Time of passing this Act, shall be liable to pay, deliver up, and account for the same to the Commissioners for executing this Act, as if such Money or Property had come to his Hands by virtue of this Act ; and that all Contracts, Stipulations, or Agreements, Mortgages and Charges, given or entered into by the Commissioners acting under the said recited Act hereby

re-pealed, with any Person or Persons whomsoever, or by any (Section 2.) Person or Persons with such Commissioners, shall, notwithstanding the Repeal of the said Act, subsist and continue for such Term or Terms and in such Manner as the same would have subsisted and continued in case the said recited Act had not been repealed; and that the Repeal of the said recited Act shall not extend to prevent the suing for or Recovery of any Penalty incurred in respect of any Offence committed against the Provisions of the said Act so repealed previously to the passing of this Act, or to prevent or defeat any Prosecution commenced or which might have been brought for any such Offence, but all Penalties which shall have been incurred before the passing of this Act under the Provisions of the said hereby repealed Act may be sued for and recovered under the Provisions of this Act, and all Offences committed before the passing of this Act against the Provisions of the said hereby repealed Act may be prosecuted under the Provisions of this Act; and all Byelaws, Rules, or Orders made under or by virtue of the said hereby repealed Act for the Regulation of Hackney, Fly, and other Carriages, Pony or Donkey Carts or Gigs, Sedan and Wheel Chairs and Fly Carriages drawn by Men, and now in force, shall continue in force for the Space of One Year after the passing of this Act, or until other Byelaws are sooner made, and shall come in force in the above Behalf under the Powers of this Act. (a)

and Penalties incurred recoverable under this Act.

Bye laws for Hackney Carriages to continue for One Year or 'till others are sooner made.

II. (b) That in this Act the following Words and Expressions shall have the Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

Interpretation of Terms.

Words importing Individuals shall include Corporations : Individuals.
 "Borough" or "Parish" shall mean the Borough and Parish of Cheltenham : Borough or Parish.

(a) These Bye Laws have not yet been made, if in time they may be inserted in the Appendix.
 (b.) By sec. 2 of the 13 & 14 Vict. c. 21 "An Act for shortening the language used in Acts of Parliament," it is enacted, "that all acts shall be divided into sections, if there be more enactments than one, which sections shall be deemed to be substantive enactments, without any introductory words;"

And by the fourth section "That in all acts words importing the masculine gender shall be deemed and taken to include females and the singular to include the plural, and the plural the singular, unless the contrary as to gender or number is expressly provided ;"

Number and Gender

"And the word "month" to mean calendar month, unless words be added shewing lunar month to be intended ;"

Month.

"And "county" shall be held to mean also county of a town or of a city, unless such extended meaning is expressly excluded by words ;"

County.

"And the word "land" shall include messuages, tenements, and hereditaments, houses and buildings of any tenure, unless where there are words to exclude houses and buildings, or to restrict the meaning to tenements of some particular tenure ;"

Land.

"And the words "oath," "swear" and "affidavit" shall include affirmation, declaration, affirming, and declaring, in the case of persons by law allowed to declare or affirm instead of swearing."

Oath, swear, affidavit.

(Section 2.)
Commissioners.

"Commissioners" shall mean the Commissioners under this Act:

Justice or
Justices.

"Justice or Justices" shall mean Justice or Justices of the Peace for the County of *Gloucester*, and "Two Justices" shall mean Two or more Justices met and acting together :

Occupier.

"Occupier" (a) shall not include a Lodger, or Person in the Occupation as Tenant of a furnished House, but shall include the Person by whom such furnished House is so let :

Owner.

"Owner" shall mean the Person for the Time being receiving the Rackrent of the Lands and Premises in connexion with which the said Word is used, whether on his own Account or as a Mortgagee or Incumbrancer in possession, or as Trustee for any other Person, or who would so receive the same if such Lands or Premises were let at Rackrent :

Pave.

To "pave" shall include the making or forming of a hard Surface to a Roadway, or generally repairing the same by broken Stone or other Material, as well as pitching :

Quarter Sessions

"Quarter Sessions" shall mean the Quarter Sessions of the County of *Gloucester* :

"Arbitrators," "Drain," "Lands," "Month," "Premises," "Rackrent," "Sewer," "Slaughter-house," "Street," "Superior Court," "Waterworks Company," and "Waterworks" shall have the several Meanings assigned to them in the Public Health Act, 1848 ; and the Words "Sewers and Drains," when used with reference to Streets, shall include Gutters and Channels running in or through the Streets ; and the Word "Street" shall include a Turnpike Road, notwithstanding anything in the said Public Health Act to the contrary :

Arbitrators.

The Word "Arbitrators" shall include a single Arbitrator ; and the Words "Arbitrators" and "Arbitrator" shall include an Umpire :

Drain.

The Word "Drain" shall mean and include any Drain of and used for the Drainage of One Building only, or Premises within the same Curtilage, and made merely for the Purpose of communicating therefrom with a Cesspool or other like Receptacle for Drainage, or with a Sewer into which the Drainage of Two or more Buildings or Premises occupied by different Persons is conveyed :

Lands.
Premises.

The Word "Lands" and the Word "Premises" shall include Messuages, Buildings, Lands, and Hereditaments of any Tenure :

Month.

The Word "Month" shall mean Calendar Month :

Rackrent.

The Expression "Rackrent" shall mean Rent which is not less

(a.) This Interpretation was agreed to be altered, but it escaped. By it, any person occupying a furnished house as Tenant, though he may have occupied, been rated, and paid all rates and rents for it for years to any amount, is not entitled to vote ; but the person letting, though living at a distance is to be the "occupier" within the interpretation and entitled to vote.

than Two Thirds of the full net annual Value of the Property ^(Section 2.) out of which the Rent arises; and the full net annual Value shall ^{Full net annual value.} be taken to be the Rent at which the Property might reasonably be expected to let from Year to Year, free from all usual Tenant's Rates and Taxes, and Tithe Commutation Rent-charge (if any), and deducting therefrom the probable average annual Cost of the Repairs, Insurance, and other Expenses (if any) necessary to maintain the same in a State to command such Rent :

The Word "Sewer" shall mean and include Sewers and Drains of ^{Sewer.} every Description, except Drains to which the Word "Drain" interpreted as aforesaid applies :

The Term "Slaughter-house" shall mean and include the Buildings ^{Slaughter-house.} and Places commonly called Slaughter-houses and Knackers Yards, and any Building or Place used for slaughtering Cattle, Horses, or Animals of any Description for Sale :

The Word "Street" shall apply to and include any Highway (not ^{Street.} being a Turnpike Road), and any Road, public Bridge (not being a County Bridge), Lane, Footway, Square, Court, Alley, Passage, whether a Thoroughfare or not, and the Parts of any such Highway, Road, Bridge, Lane, Footway, Square, Court, Alley, or Passage within the Limits of any District :

The Expression "Superior Courts" shall include Her Majesty's ^{Superior Courts.} Superior Courts of Record at *Westminster*, and the Court of Common Pleas of the County Palatine of *Lancaster* and the Court of Pleas of the County of *Durham* :

The Expression "Waterworks Company" shall mean any Corpora- ^{Water-works Company.} tion, Person, or Company of Persons supplying or who may hereafter supply Water for their own Profit :

The Term "Waterworks" shall include Streams, Springs, Wells, ^{Water-works.} Pumps, Reservoirs, Cisterns, Tanks, Aqueducts, Cuts, Sluices, Mains, Pipes, Culverts, Engines, and all Machinery, Lands, Buildings, and Things for supplying or used for supplying Water, also the Stock in Trade of any Waterworks Company :

And when any Distance from or around the Borough of ^{Distance how measured.} *Cheltenham* is referred to in this Act, the same shall be measured in a direct Line from *Cheltenham* Parish Church :

And where any Act or Thing is by this Act required to be ^{Sunday, &c. Acts falling on.} done or performed on any certain Day of the Month, and the same shall happen to fall on a *Sunday*, or any Day appointed for Public Fast or Thanksgiving, then such Act or Thing shall be done or performed on the following Day, or if that Day should also happen to fall on *Sunday* or a Public Fast or Thanksgiving Day, then on the Day following it.

(Section 3.)

11 & 12 Vict.
c. 63.,
13 and 18 Vict.
c. 94.,
10 and 11 Vict.
cc. 18. 34. 89. and
65. incorporated
with this Act.

III. That the several Provisions of "The Public Health Act, 1848," and "Public Health Supplemental Act, 1849," "The Commissioners Clauses Act, 1847," "The Towns Improvement Clauses Act, 1847," "The Town Police Clauses Act, 1847," and "The Cemeteries Clauses Act, 1847," herein-after particularized under the Subjects to which they respectively relate, shall be incorporated with this Act as Part thereof, subject to the several Modifications in extension, limitation, or explanation of such Provisions hereunder mentioned in connexion therewith, and the Words herein used as introductory to Enactments, Clauses, and Provisions shall not be construed to restrain the same ;

Meaning of Local
Board.

And by the Words "Local Board of Health" or "Local Board" used in the said Provisions incorporated from the Public Health Acts shall be understood the Commissioners under this Act ;

District,
Non-corporate
District.

And by the Words "District" or "Non-corporate District" therein used, shall be understood the Borough of *Cheltenham* ;

Public Health
Act.

And by any Terms denoting the Public Health Act, 1848, or the Application of that Act, therein used, shall be understood this Act or the passing of this Act ;

"Special Act,"
"this Act"
"Limits of the
Special Act"

And in the Provisions incorporated from "The Commissioners Clauses Act, 1847," "The Town Improvement Clauses Act, 1847," "The Town Police Clauses Act, 1847," and "The Cemeteries Clauses Act, 1847," the Words "the Special Act" or "this Act" there used shall mean this Act, and the Words "Limits of the Special Act" shall mean the Borough of *Cheltenham* ; and in the said Cemeteries Clauses Act the Word "Company" shall mean "Commissioners" under this Act. (a.)

"Company"

(a.) The Commissioners Clauses Act, the Towns Improvement Clauses Act, the Town Police Clauses Act, and the Cemeteries Clauses Act, each contain an interpretation clause. This 3d. section of the Cheltenham Improvement Act enacts that the provisions &c. incorporated from the above mentioned four acts "shall be incorporated as part thereof;" the words therefore in such incorporated provisions will be interpreted by the interpretation clauses (2nd & 3d.) of the Cheltenham Act, and by the Interpretation Act of the 13 & 14 Vic. c. 21 (see note (b.) to section 3 page 3 ante) wherever those sections, or act give interpretations, although such last mentioned interpretations differ from the interpretations in the Consolidation acts. But there are some words to which interpretations are given by the Consolidation Acts, to which words no interpretations are given by the Cheltenham Act, or the 13 & 14 Vic. c. 21, and it may be submitted that such words will bear the interpretations given to them in such Consolidation Acts. The four above mentioned Consolidation Acts each contain the following provisions :

"The following words and expressions in both this and the special act, and any act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction."

The words in such Consolidation Acts to which interpretations are given, are (with few exceptions mentioned after) the same words to which certain interpretations are given by the Cheltenham Act or the General Act 13 & 14 Vic. c. 21. The exceptions are as follows :—In each of the four acts it is enacted, that—

"The word "prescribed" used in this act, in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special act ;

IV. That in citing this Act in other Acts of Parliament, and in legal or other Proceedings or Instruments, it shall be sufficient to use the Expression "The *Cheltenham* Improvement Act, 1852." (Sections 4, 5, 6, 7.)
Short Title of Act.

V. That this Act shall apply to and be in force within and throughout the entire Area comprised within the Boundaries of the Borough and Parish of *Cheltenham* in the County of *Gloucester*. Limits of the Act.

VI. That the Number of Persons for executing this Act shall be Thirty, and they shall be called "The *Cheltenham* Improvement Commissioners," and such Commissioners shall be qualified as hereinafter mentioned; and the Persons named in the Schedule (A.) to this Act annexed shall be the First Body of Commissioners, and shall go out of Office in manner hereinafter mentioned, and in their Stead the future Commissioners for executing this Act shall be elected in manner herein-after also mentioned. Number of Commissioners, their Style.

VII. That for the Purpose of the Representation by Commissioners under this Act, the Borough shall be divided into Five Wards; namely, East Ward, North Ward, West Ward, Middle Ward, and South Ward, severally described in the Schedule (A.) to this Act annexed; and each of the said Wards shall be considered as a separate Election District, and the First Body of Division into Wards, and Number of Commissioners for each Ward.

and the sentence in which such word occurs shall be construed as if, instead of the word "prescribed," the expression "prescribed for that purpose in the special act" had been used;"

In the Commissioners Clauses Act it is enacted that "The expression "the undertaking" shall mean the undertaking or Works, of whatever nature, which shall by the special act be authorised to be executed or carried on;"

"The word "Sheriff" shall mean the Sheriff Depute of the County or Ward of a county in Scotland and the Steward Depute of the Stewartry in Scotland in which any matter submitted to the Cognisance of the Sheriff arises, and shall include the substitutes of such Sheriff Depute and Steward Depute respectively."

"The expression "the Clerk" shall mean the clerk of the Commissioners, and shall include the word "Secretary;" and

"The expression "the Town" shall mean the Town or District named in the special act within which the powers of the Commissioners are to be exercised."

In the Towns Improvement Clauses Act and the Town Police Clauses Act it is enacted that "The word Cattle shall include horses, asses, mules, sheep, goats, and swine."

In the Cemetery Clauses Act it is enacted that "The expression "the Cemetery" shall mean the Cemetery or Burial Ground, and the works connected therewith, by the special act authorised to be constructed:"

And "The expression "Established Church" shall mean the United Church of England and Ireland as by law established:"

The only words differing in interpretation, so far as effects the Borough of Cheltenham, are—

The words "Owner" and "Street" in the Towns Improvement Clauses Act which are interpreted in such act as follows:—

"The word "Owner," used with reference to any Lands or Buildings in respect of which any work is required to be done, or any rate to be paid, under this or the special act, shall mean the person for the time being entitled to receive, or who, if such Lands or Buildings were let to a Tenant at rack-rent, would be entitled to receive the rack-rent from the occupier thereof:"

"The word "Street" shall extend to and include any road, square, court, alley, and thoroughfare within the limits of the special act:"

And the word "Street" in the Town Police Clauses Act, which is therein interpreted as follows:

"The word "Street" shall extend to and include any road, square, court, alley, and thoroughfare or public passage within the limits of the special act."

ROTATION OF COMMISSIONERS.

(Section 8.)

Commissioners shall represent the Wards under which their Names are respectively set in the said Schedule, and of the future Commissioners Six shall be elected for each Ward.

Rotation of
Commissioners.

And with respect to the Rotation of the Commissioners, be it enacted,

Sections 17, 18,
19, and 20 of 10
and 11 Vict. c. 16.
incorporated
with this Act.

VIII. That the following Sections of the Commissioners Clauses Act, 1847, shall be incorporated with this Act:

The Section numbered 17 of the said Act:

One Third of
Commissioners
to go out of Office
every Year.

XVII. Where by the special Act it is provided that the Commissioners shall be elected by the Rate-payers within the Town, or other like Class of Electors,* the first Body of Commissioners, whether appointed by the special Act, or elected under the Provisions of this and the special Act, shall go out of Office according to the prescribed Rotation, and at the prescribed Times, and where no Rotation or Time of going out of Office is prescribed they shall go out of Office by Rotation in the following Manner, (that is to say,) on the first *Thursday* in the Month of *September* in the Year following that in which the special Act is passed One Third of such Body of Commissioners shall go out of Office, and on the first *Thursday* in *September* in the following Year another Third of such Body of Commissioners shall go out of Office, and on the first *Thursday* in *September* in the Year following the Remainder of such Body of Commissioners shall go out of Office, and on the first *Thursday* in the Month of *September* in every subsequent Year One Third of the Commissioners, being those who have been longest in Office, shall go out of Office; and in each Instance the Places of the retiring Commissioners shall be supplied by the Election of a like Number of Commissioners in the Manner herein or in the special Act provided: Provided always, that if the prescribed Number of Commissioners be some Number not divisible by Three, and the Number of Commissioners to retire be not prescribed, the Commissioners shall in each Case determine what number of Commissioners, as nearly One Third as may be, shall go out of Office, so that no Commissioner shall remain in Office longer than Three Years without being re-elected.

Twentieth of
November, time
of going out of
Office.

And the Time of first going out of Office shall be the Twentieth Day of *November* One thousand eight hundred and fifty-three, and the Day of subsequent going out of Office shall be the Twentieth Day of *November* in each year:

* See section 9 post.

REELIGIBILITY, OCCASIONAL VACANCIES, ROTATION LIST. 9

Also the Section numbered 18 of the said Act :

(Section 8.)

XVIII. Every Commissioner going out of Office by Rotation, or otherwise ceasing to be a Commissioner, may be re-elected, and after such Re-election he shall, with reference to going out by Rotation, be considered as a new Commissioner. Commissioners eligible to be re-elected.

Also the Section numbered 19 of the said Act :

XIX. If any of the Commissioners die or resign, or be disqualified, or cease to be a Commissioner from any other Cause than that of going out of Office by Rotation, the remaining Commissioners, if they think fit, may, within One Month from the happening of such Vacancy, elect another Commissioner in his Place ; and every Commissioner so elected shall continue in Office only so long as the Person in whose Place he is elected would have been entitled to continue in Office. Mode of supplying occasional Vacancies.

Also the Section numbered 20 of the said Act.

XX. In order to determine the Rotation by which such first Body of Commissioners shall go out of Office, the Commissioners shall within One Month after the passing of the special Act (or after the first Election of Commissioners, as the Case may be,) meet at some convenient Place for the Purpose of forming a Rotation List ; and at such Meeting the Clerk, or some Person to be then appointed for that Purpose by the Commissioners, shall write the Names of all the Commissioners on separate Slips of Paper, all as nearly as may be of equal Size, and having folded them up in the same Manner he shall put them into a Ballotting Box, and shall, in the Presence of the Meeting, draw out such Slips of Paper in succession, and the Names upon the Slips so drawn shall be written by the Clerk or other Person in a List, in the Order in which they are drawn, or where the Commissioners are elected for Wards or other Electoral Divisions of the Town (b) (and which Electoral Divisions are herein-after called Wards) in as many Lists as there are Wards or Electoral Divisions, and in the Order aforesaid, each List containing the Names of the Commissioners for One such Ward or Electoral Division only, and every such List shall be kept by the Clerk among the Papers of the Commissioners, and the Names therein shall be numbered consecutively, and the Commissioners shall retire from Office in the Order in which their Names appear on such List or Lists, as the Case may be, in the Proportions herein-before or in the special Act mentioned. Manner of making the Rotation List.

And with respect to the Election of Commissioners, be it acted, Election of Commissioners.

(b) See the Interpretation of the word "Town" note to page 7 ante.

(Sects. 9. 10.)

Owners and
Occupiers consti-
tuted Electors.

IX. That at every Election of Commissioners the Persons rated under this Act to the Borough Rate as the Occupiers of Premises in the Borough, and the Persons named in such Rate as the Owners of such Premises, shall be entitled to vote : (a.)

As to Occupiers
Qualification to
vote.

Provided always, That no Person rated as Occupier shall be entitled to vote as such at the First Election, unless he has been rated as Occupier to the Borough Rate for the Period from the Commencement of such Rate being made to the Tenth Day of *November* One thousand eight hundred and fifty-three, nor at any subsequent annual Election unless he has been rated to the Borough Rate for the Period of One whole Year immediately preceding the Sixth Day of *November* in each Year, and have paid all Borough Rates made upon him for the respective Periods aforesaid, except such as have been made or become due within the Six Months immediately preceding the Sixth Day of *November* yearly ; nevertheless the Premises in respect of the Occupation of which any Person has been so rated need not be the same Premises or in the same Ward, but may be different Premises in the Borough :

Paupers not to
vote.

Provided also, That no Person shall be entitled to vote as Occupier or Owner in any One Year who within Twelve Calendar Months next preceding the Sixth Day of *November* in such Year shall have received Relief from any Parish or Union :

Occupiers to vote
if Rates paid by
them or by
Owners.

Notwithstanding the charging of Owners under this Act with Rates in respect of any Premises, such rating or charging shall not in any Manner affect or prejudice the Right of Persons to vote as Occupiers of such Premises under this Act, provided that such Owners or Occupiers have paid the Amount of Rate payable in respect of the Premises for which such Occupiers shall claim to vote.

Sections 21, 22,
23, and 24 of 10
and 11 Vict. c. 16.
incorporated
with this Act.

X. That the following Sections of the Commissioners Clauses Act, 1847, shall be incorporated with this Act :

The Section numbered 21 of the said Act :

Annual Meeting
for Election of
Commissioners.

XXI. For the Purpose of electing Commissioners from Time to Time in the Place of those who go out by Rotation, a Meeting of the Persons entitled to vote at such Election shall be held at the prescribed Place, and if no Place be prescribed at the principal Office of the Commissioners, on the prescribed Day, or if no Day

(a) The Powers of amending the Rates contained in section 102 of the Public Health Act incorporated by section 120 post, are hardly sufficient for making the Borough Rate an accurate Registry for Owners and Occupiers quad Election Purposes. See Note page 4 ante.

be prescribed on the first *Thursday* in the Month of *September* in the Year following that in which the special Act is passed, and on the first *Thursday* in *September* in each succeeding Year, or if the Commissioners are to be elected for Wards, a Meeting of the Persons entitled to vote in each Ward shall on the same Day be held at some Place to be appointed by the Commissioners, of which Meetings, and the Time and Place of holding the same, public Notice shall be given by the Clerk by Advertisement, and also by Placards affixed on the principal Doors of the Parish Churches or other public Places in the Town Seven clear Days at the least before the Day of Election, and at such Meeting or Meetings the Election of Commissioners shall take place as herein-after mentioned. (Section 10.)

And the Day of the First Election shall be the Twentieth Day of *November* One thousand eight hundred and fifty-three, and the Day of subsequent Election shall be the Twentieth Day of *November* in each succeeding year: Twentieth November to be day of Election.

Also the Section numbered 22 of the said Act :

XXII. Where the Appointment of the Returning Officer to act at the Election of Commissioners is not provided for by the special Act, the Chairman (a) of the Commissioners shall be the Returning Officer; and if the Commissioners are to be elected for Wards, the said Chairman shall act as the presiding Officer at the Election for the Ward for which he was elected a Commissioner, and he shall appoint some other Commissioner for each of the other Wards to be the presiding Officer at the Election for such Ward, and in case of the Death of any such presiding Officer, or of his declining or becoming incapable to act, the Commissioners shall appoint another of their Body to be the presiding Officer in the Place of the Person so dying or declining, or becoming incapable to act, and the Clerk to the Commissioners shall, Two Days at least before each Election, by Advertisement, Placards, or otherwise, give public Notice of every such Appointment. Returning Officer at Elections,
Presiding Officer for Wards.

Also the Section numbered 23 of the said Act :

(a) If the Chairman happen to be one of those Commissioners going out by rotation on the 20th November, the day of Election, how can he act as presiding Officer of his Ward on the 20th, declare the State of the Poll, and send to the newly elected Commissioners on or before the 22nd of November, and act as Returning Officer? This may suggest a caution, as to appointing any Commissioner to be Chairman on the year of his going out of Office, and as to appointing presiding Officers from among the Commissioners who retire. The power to fill up vacancies in this section cannot apply to vacancies arising from the events mentioned as above; the Returning and presiding Officers going out on the 20th could never have been capable of acting.

The Poor Law Act 7 & 8 Vict. c. 101. sec. 17 provided that Guardians should remain in Office for the year "or until the election of Guardians for the succeeding year;" and the Public Health Act, sec. 21, not incorporated with this Act, provided for the chairmanship being vacant. See note to section 27 of the Commissioners Clauses Act incorporated by section 17, post, and note to section 33 of the Commissioners Clauses Act incorporated by section 12, post.

ELECTIONS OF COMMISSIONERS.

(Section 10.)
Commissioners
to furnish Voting
Papers.

Returning Officer
may appoint Poll
Booths, &c.

XXIII. At every such Election of Commissioners the Commissioners shall cause to be printed a sufficient Number of Voting Papers in blank, in the Form given in the Schedule (A.) to this Act annexed, or to the like Effect, and shall furnish them to the Returning Officer for the Use of the Voters; and if it appear to the Returning Officer at any Election expedient so to do, he may cause Booths to be erected, or Rooms to be hired and used as Booths, for taking the Poll at such Election, and he shall in such Case appoint a Clerk to take the Poll at each Booth, and shall cause to be affixed on the most conspicuous part thereof the Name of the Ward or District for which such Booth is provided; and public Notice of every Election, and of the Situation of the different Polling Places, and of the place where Voting Papers may be procured by Electors, shall be given by the Returning Officer Two Days at least before the Commencement of the Poll.

SCHEDULE (A.) Sect. 23.

Voting Paper.

Town of

[or

District of]

Voting Paper for the Town [or District] of

[or, if divided into Wards,

Voting Paper for

Ward, in the Town [or

District] of]

Name of the Persons voted for as Commissioners.	Christian Name and Surname of Voter.	Description of Property.	Number of Votes.	
			As Owner.	As Occupier

I vote for the Persons named in the above List as Commissioners for this Town [or District, or Ward, as the Case may be].

(Signed)

Here the Name of the Voter should be written.

Also the Section numbered 24 of the said Act :

Scale of Votes of
Owners and
Occupiers.

XXIV. Where by the special Act the Owners of Property and Rate-payers are entitled to vote in the Election of Commissioners, and no Scale of voting is prescribed, every such Owner and Rate-

payer shall have respectively the same Number and Proportion of Votes according to the Scale following ; (that is to say,) (Secs.10.11.)

If the Property in respect of which he is entitled to vote be rated upon a rateable Value of less than Fifty Pounds, he shall have One Vote :

If such rateable Value amount to Fifty Pounds and be less than One hundred Pounds, he shall have Two Votes :

If it amount to One hundred Pounds and be less than One hundred and fifty Pounds, he shall have Three Votes :

If it amount to One hundred and fifty Pounds and be less than Two hundred Pounds, he shall have Four Votes :

If it amount to Two hundred Pounds and be less than Two hundred and fifty Pounds, he shall have Five Votes :

And if it amount to or exceed Two hundred and fifty Pounds, he shall have Six Votes.

Where Two or more Persons are jointly (*a.*) rated as Occupiers, or named in the Rate as Owners of Premises in respect of which One Vote only is given, the Occupier or Owner first named in the Rate Book shall give such single Vote ; and so when the Number of joint Occupiers or Owners so rated or named in the Rate is greater than the Number of Votes given, such Number of such Occupiers or Owners as is equal to the Number of Votes given shall give each One Vote in the Order their Names stand in the Rate Book ; and where the Number of Votes is equal to the Number of such Persons, they shall all vote single ; and where the Number of Votes given exceeds the Number of such Persons, they shall all have One Vote, and the Person first named in the Rate Book shall have the remaining Vote or Votes :

As to joint rating and Ownership.

Any Person who is Owner and also *bona fide* Occupier of the same Premises shall be entitled to vote in respect both of such Ownership and of such Occupation.

Compound Vote, Owner and Occupier.

XI. That no Person entitled to vote shall give in the whole of the Wards a greater Number of Votes than he would have been entitled to have given if the Borough had not been divided into

Case of Electors having Property in several Wards

(*a*) By this Act, any owner or rated occupier of the very lowest annual value (and as regards occupiers of small Tenements even tho' the rates be paid by the owners under this act) are entitled to vote ; yet by this addenda if two happen to own or occupy premises rated at on farthing less than the annual value of £30, only one of such is entitled to vote, contrary to the provisions of the Poor Law, the Public Health, the Reform Acts. &c. &c. Two among the Promoters of this Act contended for altering this clause, to suit the spirit of the Times, but could not obtain the smallest alteration. Some may think it strange, that tho' the Bill promoted by the late Commissioners was thrown out by the aid of the Hon. Member for the Borough at the urgent request of his Party and at the risk of his seat, because its Election clauses were based on the system of "plurality of votes," yet, in 1852, the whole Borough submitted willingly to the Establishment of the same system, with the addition of this and other exclusive provisions.

(Secs. 11. 12)

Wards, nor in any One Ward a greater Number of Votes than he is entitled to in respect of Premises in that Ward ; and unless such Person should by Notice in Writing delivered to the Commissioners Clerk in each Year Fourteen Days at least before the Day of Election elect in what Ward or Wards he will vote for the ensuing Year, and determine the Proportion of Votes which he will give in any One or more of such Wards, he shall be entitled to vote only in One Ward. (a.)

Sections 26 to 35
of 10 & 11 Vict. c.
16. incorporated
with this Act.

XII. That the following Sections of the Commissioners Clauses Act, 1847, shall be incorporated with this Act :

The Section numbered 26 of the said Act :

Commissioners
may cause alpha-
betical List of
Voters to be made
and may defray
the Expence out
of the Rates.

XXVI. Before any such Election of Commissioners the Commissioners, if they think it necessary for enabling the Returning Officer to take the Poll conveniently at such Elections, may cause an alphabetical List to be made out of the Names of the Persons entitled to vote at such Elections as they appear in the Rates made for the Purposes of the special Act, and they shall deliver to the Returning Officer for the Time being a sufficient Number of Copies of the List so prepared, to enable the Returning Officer to take the Poll at the Election, and they may defray the Expence of making such List and Copies out of the Rates payable to them under the special Act.

Also the Section numbered 27 of the said Act :

Returning Officer
may summon
Rate Collector,
Overseers, &c.
to attend the
Election.

XXVII. If the Qualifications of the Electors of the Commissioners depend upon the Rates payable by such Electors, the Returning Officer may summon the Overseers or Inspectors of the Poor, Collectors, and other Officers employed in the Assessment or Collection of the Rates, to attend the Election in order to assist in ascertaining that the Persons presenting themselves to vote, or who have voted, are or were duly qualified to vote at such Election ; and such Overseers or Inspectors, Rate Collectors, or other Officers shall attend with the Rates and such other Documents necessary for the Purpose aforesaid as may be in their Custody or Power, at such Places and at such Times as the Returning Officer may direct, and shall answer all such Questions as any presiding Officer at the Poll shall put to them respecting the Title of any Person to vote at the Election ; and any Overseer or Inspector, Rate Collector, or other Officer who shall wilfully neglect or fail to

Penalty on Rate
Collector, &c. for
Neglect.

(a.) If the Voter do not elect, the section does not point out in which "One Ward" he must vote he therefore has his choice. In the Poor Law Act, from which this section is partly taken, the words are "he shall not be entitled to vote for any ward in which he does not reside ;" residence is not required as a qualification for owners or occupiers under this act.

perform the Duties hereby imposed upon him, shall for such Neglect or Failure be liable to a Penalty not exceeding Twenty Pounds. (Section 12)

Also the Section numbered 28 of the said Act :

XXVIII. At every such Election of Commissioners the voting shall commence at Nine of the Clock in the Forenoon of the Day fixed for the Election as aforesaid, and shall finally close at Four of the Clock in the Afternoon of the same Day (unless in case of Riot or Obstruction), and shall be conducted in manner following; (that is to say,) every Person entitled to vote may vote for any Number of Persons having the prescribed Qualification (not exceeding the Number of Commissioners then to be chosen for the Town, or where the Commissioners are to be elected in Wards not exceeding the Number to be elected for the Ward in which such Person is entitled to vote) by delivering to the presiding Officer at the Poll a Voting Paper, containing a Description of his Qualification to vote, in the Form contained in Schedule (A.) (b) to this Act annexed, or to the like Effect, and also the Names of the Persons for whom he votes, such Paper being previously signed with the Name of the Person voting, and the Poll Clerk shall thereupon openly record such Vote in the Poll Book, and the Voting Paper shall be carefully preserved by the presiding Officer; and the presiding Officer shall, if he thinks fit, or if he be required so to do by any Person entitled to vote at the said Election, put to any Voter at the Time of his delivering in his Voting Paper the following Questions, or either of them :

1. Are you the Person assessed as *A. B.*, on the [] Rate [*specifying the Rate which confers the Right to vote*] in respect of Property described to be situated in [*here specify the Street, &c. as described in the Rate*] ? Questions at Poll

Or, if the Voter claim to vote as the Owner of Property,

Are you the Person described as the Owner of the Property mentioned in [] Rate [*specifying the Rate*] and described as being situated in [*here specify the Street, &c. as described in the Rate*] ?

2. Have you already voted at the present Election ? [*or, if the Town be divided into Wards,*] Have you already voted for Commissioners to be elected for this or any other Ward at the present Election ?

And no Person required to answer either of the said Questions shall be permitted or qualified to vote until he has answered the same ; and if any Person wilfully make a false Answer to either of the False answer, misdemeanor.

(b.) See the form page 12 ante.

(Section 12)

Questions aforesaid he shall be deemed guilty of a Misdemeanor, or in *Scotland* shall be deemed guilty of Perjury.

Variation of Questions to suit Change of Occupation.

Provided always, that the presiding Officer may vary the Form of the First of the Questions contained in the said Section so as to suit the Case of a Change in the Occupation of Premises by the Voter :

And voting in several Wards.

Provided also, that if in answer to the Question put to any Voter at the Election whether he has already voted at such Election for Commissioners to be elected in any Ward, he shall say he has so voted in some Ward, he may be asked to name the Ward or Wards in which he has voted, and the Number of Votes he has given in such Ward or respective Wards :

Female Owners and Occupiers and Male Owners may vote by Proxy.

Provided also, that every Female entitled to vote as Owner or Occupier under this Act shall be at liberty to vote by Proxy, and every Male Person entitled to vote as Owner shall also be at liberty to vote as Owner as aforesaid by Proxy : Provided that in either Case the Proxy shall be appointed by Writing, and the Writing shall be signed within Ten Days next before the Day of Election, and the Owner or Occupier shall make a solemn Declaration before a Justice of the Peace (*b.*) of the Jurisdiction wherein he or she may be, stating the Day of the Execution of such Appointment of Proxy ; and the Commissioners shall furnish to any Person entitled to vote applying to them in Person, by Letter, or by Agent for the same, Forms of such Appointment of Proxy and Declaration by the Appointer to the Effect contained in Schedule B. No. 2. and No. 3. hereunto annexed, on Payment of One Shilling for each Set of such Forms besides the Stamp ; and no Appointment of Proxy or Declaration made in any other than the Papers so furnished by the Commissioners shall be received at any such Election ; and every Person who shall falsely or corruptly make and subscribe the said Declaration, knowing the same to be untrue in any material Particular, shall be deemed guilty of a Misdemeanor :

Proxy Papers.

Corporations and Companies to vote by Proxy.

Provided also, that every Corporation, Joint Stock or other Company or Body of Proprietors or Undertakers, shall be deemed

(*b.*) See the 18th Sec. 5 & 6 William 4, c. 62., which Act after noticing that it may be necessary and proper in many cases not therein specified to require confirmation of written instruments, or allegations, or proofs of debts, or of the execution of deeds or other matters :—enacts, That it shall and may be lawful for any Justice of the Peace, notary public, or other officer now by law authorised to administer an oath, to take and receive any declaration of the person voluntarily making the same before him in the form in the Schedule in that Act annexed ; (the same as the Schedule to this local act). Unless this section will authorise the Justice to take the Declaration required in the Text, it would seem the Justice has not that power.

(Section 12.)

to be but One Occupier or One Owner for the Purpose of voting under this Act, and shall vote by Proxy appointed in Writing under their Common Seal (in case of a Corporation), or (in any other Case) under the Hands of Three Directors or other Persons in the Direction or Management of the Company or Concern ; and no Member of such Corporation, nor any Proprietor or Person interested in such Company or Concern, shall be entitled to vote individually as Occupier or Owner in respect of such Premises :

In every Case of voting by Proxy the Appointment of Proxy, and in the Case where a solemn Declaration is herein-before required, together with such Declaration, shall be exhibited to the Returning Officer (a.) at the Time of Election ; and instead of the Questions herein-before prescribed the following Questions may be put to such Proxy on voting ; that is to say,

1. Is the Party for whom your Name is signed as Proxy assessed as C.D. on the Borough Rate in respect of Property described to be situate, &c. *[here specify the Street, &c. as described in the Rate.]* *[Or if the Voter claim to vote as Proxy for an Owner of Property]* Is the Party for whom your Name is signed as Proxy the Party described as C.D., Owner of Property mentioned in the Borough Rate, and described as being situate in *[here describe the Street, &c. as described in the Rate.]* Questions to be put.

And this Question may be varied to meet the Case of Change of Occupation as aforesaid :

2. Have you already voted as Proxy for [] for Commissioners to be elected for this or any other Ward at the present Election *[and if the Proxy say he has so voted in some Ward, he may be asked to name the Ward or Wards in which he has so voted, and the Number of Votes he has given in such Ward or respective Wards as such Proxy]*:

And no Person required to answer any of the said Questions shall be permitted or qualified to vote until he has answered the same ; and if any Person wilfully make a false Answer to any of the Questions aforesaid he shall be deemed guilty of a Misdemeanor, and may be indicted and punished accordingly :

False Answers a Misdemeanor.

(a.) Was this meant for Presiding Officer ?

(Section 12)

Also the Section numbered 29 of the said Act :

Poll may be closed if no Voting Paper be tendered for One Hour.

XXIX. The presiding Officer, at any Place of voting, may close the voting or Poll at any Time before Four of the Clock, if One Hour have elapsed during which no Voting Paper has been tendered at such Place of voting.

Also the Section numbered 30 of the said Act :

Returning Officer to examine Poll Books ;

XXX. After the Close of the Poll the Returning Officer, or where the Commissioners are elected for Wards the presiding Officer in each Ward, shall examine the Poll Books, and, if necessary, compare the Entries therein with the Rate Book and with the Voting Papers so delivered as aforesaid for the Purpose of ascertaining the Number of Votes given for each Person ; and so many of such Persons, being not more than the Number of Persons then to be chosen for the Town, or for each Ward, as the Case may be, and having the prescribed Qualification, as shall have the greatest Number of Votes shall be deemed to be elected ; and in case of an Equality in the Number of Votes for any Two or more such Persons, the presiding Officer shall, if necessary to prevent an Excess in the Number of Commissioners, decide by Lot which of such Persons shall be elected ; and the presiding Officer shall, not later than Two of the Clock in the Afternoon of the Day next but one following the Day of such Election, unless such Day be *Sunday*, and then on the Day following, publish a List of the Names of the Persons so elected, and he shall also send a Notice to each Person so elected, informing him of his being elected a Commissioner.

Decide by lot if two Commissioners have equal votes ; declare poll and send to Commissioners elected.

Also the Section numbered 31 of the said Act :

Voting Papers and poll books to be delivered by Presiding Officer to clerk.

XXXI. Within Four Days after every Election the Returning Officer, or where the Commissioners are elected for Wards the presiding Officer in each Ward, shall cause the Voting Papers delivered as aforesaid to be arranged in alphabetical Order, and numbered according to the Names of the Voters, and shall deliver them, together with the Poll Books, to the Clerk to the Commissioners ; and such Clerk shall, during Six Months at least after every such Election, keep such Voting Papers and Poll Books at his Office, and shall permit any Person to inspect the same on Payment of a Fee of One Shilling, and if such Clerk shall refuse or fail to allow such Inspection he shall for every such Refusal or Failure be liable to a Penalty of Ten Pounds.

Clerk to keep same six months for inspection under penalty.

Also the Section numbered 32 of the said Act :

XXXII. If any Person be elected a Commissioner in more than One Ward, he shall, within Three Days after Notice thereof, choose, or in default thereof the Commissioners at their next Meeting shall declare, for which One of the Wards such Commissioner shall serve, and he shall thereupon be held to be elected in that Ward only, which he shall so choose or which the Commissioners shall so declare, and shall cease to be a Commissioner for any other Ward.

(Section 12.)
Manner of proceeding if any Person is elected a Commissioner in more than One Ward.

Also the Section numbered 33 of the said Act :

XXXIII. If from any Cause no Election take place on the Day appointed for the same, either for the Town or for any Ward, the Election shall stand adjourned until the same Day of the following Week, (a.) and the Returning Officer shall give not less than Three Days previous Notice thereof by Advertisement or by Placards, affixed in public Places in the Town; and in such Case the Commissioners who would on that Day have retired from Office by Rotation shall continue in Office until such adjourned Election takes place.

If no Election on Day appointed, it may be made on a subsequent Day.

Also the Section numbered 34 of the said Act :

XXXIV. No Election of Commissioners shall be liable to be questioned by reason only of any Defect in the Title, or any Want of Title, of the Person by or before whom such Election shall have been held; provided that such Person have been actually appointed to preside, or have been acting in the Office giving the Right to preside at such Election.

Election not to be void for Want of Title in presiding Officer.

Also the Section numbered 35 of the said Act.

XXXV. All Expenses of or incident to any Election incurred by the Returning Officer or presiding Officer shall be repaid to them by the Commissioners out of the Monies arising from the Rates authorized to be levied for the Purposes of the special Act; and all Overseers and other parochial Officers or other Persons shall be in like Manner paid a reasonable Remuneration for Attendance at the Election, with Rate Books, and for any other Services performed in relation to such Election; and any Dispute respecting the Amount of such Expenses and Remuneration shall be determined by a Justice, or by the Sheriff, (b.) who shall

Expense of Presiding Officer, Overseers, &c. to be paid out of Rates levied.

Disputes settled by Justice or Sheriff.

(a.) This will be the 27th of November, the day of the annual meeting; this will be awkward; and who is to be the Returning Officer? the Chairman goes out on the 27th, and see note to page 11.

(b.) The word "Sheriff" only applies to Scotland see the Interpretation of it in note to section 2, page 7 ante.

(Sections 13,
14, 15.)

have Power also to fix the Costs attending such Determination, and to order by whom the same shall be paid. (*a.*)

Penalty upon
Officers miscon-
ducting Elections

XIII. That if any presiding Officer shall neglect or refuse to comply with any of the Provisions of this Act in respect to such Election, he shall be liable to a Penalty of Fifty Pounds, recoverable by any Person, with Costs of Suit, by Action of Debt in any competent Court; and any Person employed by or under the presiding Officer who shall be guilty of any such Neglect or Refusal shall be liable for every such Offence to a Penalty not exceeding Three Pounds:

Penalty for
falsifying Voting
Papers, or
obstructing
voters, or assis-
tants at Elections.

And if any Elector or other Person wilfully, fraudulently, and with Intent to affect the Result of the Election, fills up, or signs, or delivers in at the Election, or in any way falsifies any Voting Paper, contrary to the Provisions of this Act, or obstructs or prevents any Voter from voting, or obstructs or prevents the Persons taking or assisting in taking the Votes, he shall for every such Offence forfeit the sum of Twenty Pounds, recoverable by any Person by Action of Debt in any competent Court, with full Costs of Suit.

Commissioners
Qualifications,
&c.

And with respect to the Qualification, Disqualification, and Declaration of Commissioners, be it enacted,

What necessary
to render Persons
eligible to the
Office of
Commissioner.

XIV. That every Male Person of full Age, having his usual Place of Residence in the Borough or within Five Miles thereof, and either being in his own Right or in Right of his Wife seised or possessed of Real or Personal Estate, or both, to the Value or Amount of One thousand Pounds over and above what will pay all his Debts, or being rated (*b.*) to the Relief of the Poor of the Parish upon a net annual Value of Forty Pounds or upwards, and not being an uncertificated Bankrupt or undischarged insolvent Debtor, shall be qualified to be elected a Commissioner under this Act, and no other Person shall be eligible to that Office.

Sections 6, 7, 9,
10, 12, 13, 14, 15,
and 16 of 10 and
11 Vict. c. 16.
incorporated
with this Act.

XV. That the following Sections of the Commissioners Clauses Act, 1847, shall be incorporated with this Act:

(*a.*) It does not appear how these expenses, costs, or remuneration are to be recovered, nor is there any general provision as in the Towns Improvement Clauses Act and Town Police Clauses Act, providing for the recovery of damages, costs, and expenses, the method of recovering or enforcing payment of which, is not provided for. See note to section 129 of the Public Health Act incorporated by section 127 post. By section 80 of the Public Health Act incorporated by section 68 post, the expenses and damages occasioned by the Commissioners in examining gas pipes, &c. are directed to be recovered against them in a summary manner, and see section 141 of the Public Health Act incorporated by section 26 post.

(*b.*) The facility for persons getting rated on the Poor Rates, under fictitious claims, renders this qualification not very formidable. The Protection afforded by the Election Laws may purge the Register, not the Poor Rate.

The Section numbered 6 of the said Act :

(Section 15)

- VI. Where by the special Act the Qualification of the Commissioners is made to depend upon their being rated in respect of Property of a given Amount, then if Two or more Persons be jointly rated in respect of any Property, each of such Persons shall, subject to the Provisions herein and in the special Act contained, be eligible to be chosen a Commissioner, provided the Property in respect of which such Persons are rated be of a rateable yearly Value, which, when divided by the Number of Persons so rated, will give to each a sufficient rateable yearly Value according to the Provisions of this and the special Act.

Joint Owners or Occupiers when qualified eligible as Commissioners

And if Two or more Persons be jointly seised or possessed of Real or Personal Estate, or both, of such Value or Amount as would, if equally divided between them or among them, qualify each to be elected, each of the Persons so jointly seised or possessed may be elected :

Joint possessors of Real or Personal Property.

Also the Section numbered 7 of the same Act :

- VII. The same Property shall not at the same Time give a Qualification as Commissioner to one Person as the Owner, and to another as the Occupier thereof.

Same Property not to give Two Qualifications.

Also the Section numbered 9 of the same Act :

- IX. Any Person who at any Time after his Appointment or Election as a Commissioner shall accept, or continue to hold any Office or Place of Profit under the special Act, or be concerned or participate in any manner in any Contract, or in the Profit thereof, or of any Work to be done under the Authority of such Act, shall thenceforth cease to be a Commissioner, and his Office shall there-upon become vacant.

No Person holding Office or concerned in a Contract to be a Commissioner.

Also the Section numbered 10 of the same Act :

- X. Provided always, That no Person being a Shareholder or Member of any Joint Stock Company established by Act of Parliament shall be prevented from acting as a Commissioner by reason of any Contract entered into between such Company and the Commissioners ; but no such Commissioner, being a Member of such Company, shall vote on any Question relating to the Execution of this or the special Act in which such Company is interested.

Shareholders in Companies established by Act of Parliament not disqualified by reason of Contracts.

Also the Section numbered 12 of the same Act :

- XII. No Person shall be capable of acting as a Commissioner, except in administering the Declaration herein-after mentioned, until he

Declaration to be made by Commissioners before acting.

(Section 15.)

shall have made and signed, before One of the Commissioners, a Declaration to the Effect following :

Form.

‘ I *A.B.* do solemnly declare, That I will faithfully and impartially, ‘ according to the best of my Skill and Judgment, execute all the ‘ Powers and Authorities reposed in me as a Commissioner, by ‘ virtue of the [*here name the special Act*], and also that I [*here ‘ set forth a Statement of the Possession of the Qualification re- ‘ quired by the special Act in the Terms thereof*].’

Also the Section numbered 13 of the same Act :

False Declaration
a Misdemeanor.

XIII. Any Person who shall falsely or corruptly make and subscribe the Declaration aforesaid, knowing the same to be untrue in any material Particular, shall be deemed guilty of a Misdemeanor, or in *Scotland* shall be deemed guilty of Perjury.

Also the Section numbered 14 of the same Act :

Declaration to be
taken at the first
Meeting.

XIV. Every Person elected or appointed a Commissioner shall, at the Meeting of Commissioners at which he first attends as a Commissioner, make and subscribe the Declaration herein required, and any Commissioner, whether he himself have made such Declaration or not, may administer such Declaration.

Also the Section numbered 15 of the same Act :

Penalty on
Commissioners,
not being quali-
fied, acting.

Mode of Recovery

XV. Every Person who shall act as a Commissioner, being incapacitated or not duly qualified to act, or before he has made or subscribed such Declaration as aforesaid, or after having become disqualified, shall for every such Offence be liable to a Penalty of Fifty Pounds ; and such Penalty may be recovered by any Person, with full Costs of Suit, in any of the Superior Courts ; and in every such Action the Person sued shall prove that at the Time of so acting he was qualified, and had made and subscribed the Declaration aforesaid, or he shall pay the said Penalty and Costs without any other Evidence being required from the Plaintiff than that such Person had acted as a Commissioner in the Execution of this or the special Act ; nevertheless all Acts as a Commissioner of any Person incapacitated, or not duly qualified, or not having made or subscribed the Declaration aforesaid, done previously to the Recovery of the Penalty, shall be as valid as if such Person had been duly qualified.

His Acts valid.

Also the Section numbered 16 of the same Act.

Commissioner
neglecting to act
to cease to be one.

XVI. Every Commissioner who for the Space of Six Months after his Appointment neglects to make and subscribe the Declaration

herein-before required, or who for Six Months in succession is absent from all Meetings of the Commissioners, and* to act in the Execution of this and the special Act, shall be deemed to have refused to act, and shall cease to be a Commissioner.

(Sections 15.
16. 17.)
[*So in Act.]

And with respect to the Meetings of the Commissioners, be it enacted,

Meeting of
Commissioners.

XVI. That the Commissioners shall hold their First Meeting at the Public Office in *Cheltenham* on the Second *Monday* after the passing of this Act, at the Hour of Eleven o'Clock in the Forenoon.

First Meetings.

XVII. That the following Sections of the "Commissioners Clauses Act, 1847," shall be incorporated with this Act :

Sections 37 to 45
and Sections 47
and 48 of 10 & 11
Vict. c. 16. incor-
porated with this
Act.

The Section numbered 37 in the said Act :

XXXVII. At the first Meeting of the Commissioners they shall, by the Majority of the Votes of the Commissioners present, elect One of their Body to be their Chairman until the next annual Meeting of the Commissioners, (*a.*) when, and at every subsequent annual Meeting, the Commissioners shall in like Manner elect a Chairman for the ensuing Year ; and in case the Chairman die, or resign, or cease to be a Commissioner, or otherwise become disqualified to act as such, the Commissioners present at the Meeting next after the Occurrence of such Vacancy shall choose some other of their Body to fill such Vacancy, and the Chairman so elected shall continue in Office so long only as the Person in whose Place he was elected would have been entitled to continue Chairman ; and if at any Meeting of the Commissioners the Chairman be not present, one of the Commissioners present shall be elected Chairman of such Meeting by the Majority of the Votes of the Commissioners present at such Meeting.

Election of
Chairman of
Meetings.

And the Commissioners shall also elect from their Body a Vice-Chairman to preside in the Absence of the Chairman, and may from Time to Time fill up any Vacancy in the Office of Vice-Chairman : (*b.*)

Vice-chairman.

(*a.*) By another part of this 17th section, post, the Annual Meeting is to be the 27th November and by section 10, page 11 ante (see note,) the Election takes place on the 20th, and by section 8 ante page 8, the Commissioners go out of Office on the 20th ; this 37th section of the Commissioners Clauses Act in connection with the 38th section of the same Act post cannot be construed to allow the Chairman to act as such on the 27th November, if he be one of those Commissioners going out on the 20th, and not re-elected ; and even if re-elected he can hardly come within the words of the 38th section as he does not go out of office as chairman, or Commissioner, on the 27th, if on the 20th he cease to be a Commissioner at all : the office of chairman must be considered as vacant on the 20th, when he went out of office altogether by Rotation, it could not revive for the 27th by any re-election by the Rate-payers, as Commissioner.

(*b.*) If neither Chairman or Vice-chairman be present, it is probable, tho' not clear, that the Commissioners may elect a temporary chairman from those present.

(Section 17.)

Also the Section numbered 38 in the same Act :

Manner of voting.

Chairman's
casting vote.Acting at annual
Meeting on
retiring.

XXXVIII. At all Meetings of the Commissioners the Questions there considered shall be decided by the Votes of the Majority present, and if there be an equal Division of Votes upon any Question the Chairman or Commissioner acting as Chairman at such Meeting shall, in addition to his own Vote as a Commissioner, have a second or casting Vote; provided always, that if at any such Meeting there be an Equality of Votes in the Election of the Chairman, it shall be decided by Lot which of the Commissioners having an equal Number of Votes shall be the Chairman; provided also, that at every annual Meeting the Chairman going out of Office at that Meeting shall, if present and willing to act, be the Chairman of such Meeting. (*a.*)

Also the Section numbered 39 in the same Act :

Quorum of
Commissioners.

XXXIX. All Powers vested in the Commissioners under this or the special Act may be exercised by the prescribed Number, and where no Number is prescribed by any Five or more of the Commissioners present at any Meeting holden in pursuance of this and the special Act, and no Business shall be transacted at any Meeting of the Commissioners unless the said Number of Commissioners be present.

Also the Section numbered 40 in the same Act :

Commissioners
to hold annual
and monthly
Meetings.

XL. The Commissioners shall hold an annual Meeting at the prescribed Time and Place, and if no Time or Place be prescribed then on the Third *Wednesday* in the Month of *June* in each Year, at a Place to be appointed by the Commissioners, and the first of such annual Meetings shall be held in the Year after that in which the special Act is passed; and they shall also hold monthly Meetings for the Transaction of general Business, and the said monthly Meetings shall be held at the Office of the Commissioners, on such Day and Hour in each Month as the Commissioners shall from Time to Time appoint, and when any such Appointment is made the Clerk shall give Notice thereof to each of the Commissioners, and they shall afterwards, until the Time or Place of such monthly Meeting is changed, and Notice of such Change given to the Commissioners, attend such monthly Meetings without Notice.

First and subse-
quent annual
Meetings.

And the First Annual Meeting of the Commissioners shall be held on the Twenty-seventh Day of *November* One thousand

(*a.*) See note to the 37th section of the Commissioners Clauses Act ante, page 23.

eight hundred and fifty-two, and subsequent Annual Meetings on the Twenty-seventh Day of *November* yearly; and at every Annual and Monthly Meeting of the Commissioners any Rate-payers or Owners of Property may be present, but they shall not take part in the Business of such Meetings; and any Ratepayer or Owner present at any Meeting who, in the Judgment of the major Part of the Commissioners then present, and voting on the Question, misbehaves himself, may be summarily removed by the verbal Order of the Chairman of such Meeting; and the Commissioners shall from Time to Time make Bye laws with respect to the Summoning, Notice, Place, Management, and Adjournment of such Meetings, and generally with respect to the Transaction and Management of Business by the Commissioners under this Act:

(Section 17)

Rate-payers
and Owners
present at
Meetings.

Bye Laws as to
Meetings, &c.

Also the Section numbered 41 in the said Act:

XLI. The Commissioners present at such first Meeting, or at any annual or monthly Meeting, or at any adjourned Meeting, may from Time to Time adjourn such Meeting to the same or any other Place within the Limits of the special Act, and if at any Meeting of the Commissioners there be not the prescribed Number, or where no Number is prescribed Five Commissioners, present within One Half Hour after the Time appointed for such Meeting, the Commissioners present, or the major Part of them, or any One Commissioner if only One be present, or their Clerk if no Commissioner be present, may adjourn such Meeting to another Day at the same or any other Place within the Limits of the special Act.

Meetings of Com-
missioners may
be adjourned
from Time to
Time.

Also the Section numbered 42 in the said Act:

XLII. The said monthly Meetings of the Commissioners shall be held for transacting the ordinary Business of the Commissioners under this or the special Act, and amongst the rest for appointing and removing the inferior Officers of the Commissioners, and superintending their Conduct, and for inquiring into the Conduct of the Contractors or other Persons employed by them to execute any Works, and into the State and Progress of such Works, and generally for giving such Directions from Time to Time as may be necessary for carrying into effect the Purposes of this and the special Act.

Monthly Meet-
ings shall be held
for transacting
the ordinary Bu-
siness under this
and the special
Act, appointing,
&c. inferior
Officers, &c.

And by the Words "inferior Officers" in the said Section shall be understood Officers other than the Clerk, Surveyor, Treasurer, Officer of Health, and Inspector of Nuisances; which said ex-

Meaning of infe-
rior Officers.

(Section 17)

cepted Officers shall be appointed and removed at Special Meetings of the Commissioners: (a)

Also the Section numbered 43 in the said Act :

No extraordinary Business shall be transacted at monthly Meetings unless Notice be given.

XLIII. Where any Business other than ordinary Business is required or intended to be transacted at any monthly Meeting, the Clerk shall give Notice thereof to each of the Commissioners, and no such extraordinary Business, nor any new Rules or Regulations, shall be adopted at the monthly Meetings unless due Notice thereof have been given at a prior Meeting, and sent to each Commissioner in the Manner required for special Meetings.

And the Section numbered 44 in the said Act :

No Resolution of Commissioners to be revoked at a subsequent Meeting unless under certain Circumstances.

XLIV. No Resolution at any Meeting of the Commissioners shall be revoked or altered at any subsequent Meeting unless Notice of the Intention to propose such Revocation or Alteration be given by the Clerk to each of the Commissioners Seven Days at least before holding the Meeting, nor unless such Revocation or Alteration be determined upon by a Majority consisting of Two Thirds of the Commissioners present at such subsequent Meeting, if the Number of Commissioners present at such subsequent Meeting be not greater than the Number present when such Resolution was come to, or by a Majority if the Number of Commissioners present at such subsequent Meeting be greater than the Number present at such former Meeting.

And the Section numbered 45 in the said Act :

As to the holding of special Meetings.

XLV. The Commissioners may hold special Meetings, and any Five or more of the Commissioners may require a special Meeting to be held, but no such Meeting shall be held unless Two clear Days Notice thereof at the least be given.

And in case of Emergency Special Meetings of the Commissioners may be held upon One Day's Notice, but the Resolutions of every such Meeting on Emergency shall depend for their Validity on the Confirmation of a subsequent regular Meeting :

Also the Section numbered 47 in the said Act :

How Notices of Meetings of Commissioners are to be given.

XLVII. All Notices of any Meeting of the Commissioners shall be in Writing or in Print, or partly in Writing and partly in Print, and shall be by the Clerk delivered or sent by the Post, or otherwise, to the usual Place of Abode or Place of Business, if any,

(a.) It would appear that in consequence of this limitation the conduct, &c. of these excepted Officers can be superintended at a special meeting only.

within the Limits of the special Act, of each of the Commissioners (Secs. 17.18)
Two clear Days at least previous to such Meeting, and every such Notice shall specify the Time and Place of Meeting, and in case of a special Meeting shall specify the Object thereof, and no Business shall be transacted at any special Meeting except such as is stated in the Notice thereof.

Also the Section numbered 48 in the said Act.

XLVIII. At all Meetings of the Commissioners they shall defray Expenses of Meetings.
their own Expenses, except what may be incurred for the Use of the Room in which the Meeting is held, and for Books, Stationery, and Fire.

And with respect to the general Proceedings of the Commissioners, be it enacted, General Proceedings.

XVIII. That the following Sections of the "Commissioners Sections 49 to 55 of 10 & 11 Vict. c. 16 incorporated with this Act.
Clauses Act, 1847," shall be incorporated with this Act :

The Section numbered 49 in the said Act :

XLIX. The Commissioners may at any Meeting from Time to Time Power to Commissioners to appoint Committees
appoint Committees for any Purposes which in the Opinion of the Commissioners would be better regulated and managed by means of such Committee, and they may fix the Quorum of any such Committee, and may continue, alter, or discontinue such Committee.

Also the Section numbered 50 in the said Act :

L. Every Committee so appointed may meet from Time to Time, and Quorum of Committee.
may adjourn from Place to Place, as they may think proper, for carrying into effect the Purposes of their Appointment ; but no Business shall be transacted at any Meeting of the Committee unless the Quorum of Members, if any, fixed by the Commissioners, and if no Quorum be fixed Three Members, be present, and at all Meetings of the Committee One of the Members present shall be appointed Chairman, and all Questions shall be determined by a Majority of the Votes of the Members present, and in case of an equal Division of Votes the Chairman shall have a casting Vote in addition to his Vote as a Member of the Committee.

But the Acts of every Committee appointed by the Commissioners shall be approved by the Commissioners before the same Limit to the Power of Committees.
are deemed valid ; and no such Acts shall extend to the Payment of or Engagement to pay Money, except to an Amount to be limited by Resolution of the Commissioners, and in no Case to exceed the Sum of Twenty Pounds : Provided always, that any

(Section 18.)
Powers of Nuisance Committees.

*Sic. for 1848.

Committee appointed for the Removal of Nuisances, or the Prevention of contagious or epidemic Diseases, may receive Notices and make Complaints under the "Nuisances Removal and Diseases Prevention Act, (a.) 1849,"* or any Public Act of Parliament passed or to be passed for the like Purpose, and may proceed upon such Notices or Complaints pursuant to the Powers of any such Act, without further Authority from the Commissioners than is conferred by the Appointment of such Committee :

Also the Section numbered 51 in the said Act :

Acts of the Commissioners not to be invalidated by reason of Vacancies.

LI. No Proceeding of the Commissioners or of any Committee shall be invalidated or be illegal in consequence only of there being any Vacancy in the Number of Commissioners at the Time of such Proceeding.

Also the Section numbered 52 in the said Act :

(a.) "The Nuisances Removal and Diseases Prevention Act, 1848," and "The Nuisances Removal and Diseases Prevention Amendment Act, 1848," not being incorporated are inserted at length in the Appendix, No. 3 post. By the first section of the Removal of Nuisances Act, 1848, the Town authorities on a notice from two inhabitant householders of the filthy, offensive, or unwholesome state of dwellings, buildings, ditches, styes, &c., accumulations of manure, &c.; are bound to enter and examine the premises, &c., and if the notice of the state of the premises &c. be found correct, or a certificate of two medical practitioners to the like effect be obtained, the authorities must complain to a Justice, who is ordered to summon the owner or occupier before two Justices, who, on proof of the cause of complaint, &c., are bound to make an order for the purification or abatement of the nuisance, which if not obeyed subjects the offender to a penalty of 10s. a day during his default; and the authorities must abate the nuisance, &c. Section 3 relates to Scotland; sections 3 and 4 relate to the recovery of the expenses of such proceedings; section 5 directs that none of the preceding provisions shall apply to any "district, parish, or place in which the Public Health Act, 1848, or any part thereof shall be in force," except as the General Board, or a Secretary of State shall otherwise direct. This provision, but for section 13 of the Local Act would have excluded Cheltenham. It might have been advisable to have made it compulsory not permissive on the Committee to proceed. Section 6 compels Surveyors, &c. of Highways, under the Highway Act, to cleanse the ditches, watercourses, &c. along the Highways (but see note to section 117 of the Public Health Act, incorporated by section 56 post.) Section 7 prohibits drainage into open ditches, &c., from new houses, &c. Section 8 requires the consent of the General Board to the building, &c. of any Hospital for patients with infectious diseases. The act then proceeds to authorise the issuing of orders in council for six months, applying to all places whatever, authorising the provisions therein contained for purification and ventilation of every kind, whether as respects houses, buildings, filth, &c., interments, cleansing highways, &c. to be carried out by the General Board of Health. The Poor Law Commissioners may order Guardians to carry out the provisions of such General Board. The Nuisances Removal amendment Act of 1849, confers additional powers on the General Board of Health for getting up evidence, enforcing obedience to regulations, &c. and for enabling Guardians, Paving Authorities, &c., to direct prosecutions, &c. for offences against their regulations, &c.; and compelling Guardians, &c. on the certificate of a medical or relieving officer, stating the existence of any cause of complaint in sections 1 or 3 of the act of 1848, to take the proceedings mentioned in such act : and the act provides for the expenses. The remainder of the act gives most extensive powers to the General Board to make enquiries, and take measures of precaution, as to regulating or closing places of Interment, and providing new ones. But the 96th and 7 following sections of the Local Act post, make full provision for regulating burials, preventing danger to health, &c., and closing places of interment; and the 104th and 5 following sections post, provide for making and regulating new cemeteries, &c.

LII. All Proceedings of the Commissioners, or of a Committee of Commissioners, or of any Person acting as a Commissioner, shall, notwithstanding it be afterwards discovered that there was some Defect in the Appointment of any such Commissioners or Persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such Person had been duly appointed and was qualified to be a Commissioner. (Section 18)
Informalities in Appointment of Commissioners not to invalidate Proceedings.

And the said Section shall extend to cure Defects in Proceedings by reason of Informalities in the Appointment of any Person acting under the Authority of the Commissioners : Or Officers.

And the Section numbered 53 in the said Act :

LIII. The Commissioners may from Time to Time provide and maintain fit and convenient public Offices, together with all necessary and proper Furniture for the same, for holding the Meetings and transacting the Business of the Commissioners, and for the Use of their Officers, and for the holding of such public Meetings and transacting such public Business relating to the Town as the Commissioners shall, from Time to Time, under the Powers of this or the special Act, or any Act incorporated therewith, direct or allow to be held or transacted therein, and for such Purpose may purchase or hire any Lands or Buildings which the Commissioners think necessary from any Person willing to sell or let the same, or may cause any new Building to be erected upon any Land purchased or hired under the Provisions of this or the special Act, or otherwise belonging to the Commissioners. Commissioners may provide Public Offices, &c.

And the said Section shall extend to enable the Commissioners to provide Yards and Buildings for keeping the Stores, Implements, and Materials of the Commissioners : Yards and Buildings,

Also the Section numbered 54 in the said Act :

LIV. The Commissioners shall require their Clerk, or some Person duly authorized by them in that Behalf, to attend to their Office daily, *Sundays, Christmas Days, and Good Fridays*, and Days appointed for General Fasts or Thanksgivings only excepted, for the Purpose of receiving Notices, and transacting the ordinary Business of the Commissioners, and due Notice of the Situation of the Office of the Commissioners, and of the Hours during which Attendance is given there, shall be published by the Commissioners within the Limits of the special Act, in such Manner that the same may be fully and generally known. Commissioners to provide daily Attendance at their Office to receive Notices, &c.

Also the Section numbered 55 in the said Act.

(Sections 18,
19, 20.)

Proceedings to be
entered in a
Book and, when
signed, shall be
received in
Evidence.

LV. The Commissioners shall cause Entries of all the Proceedings of the Commissioners, and of every Committee appointed by them, with the Names of the Commissioners who shall attend each Meeting, to be duly made from Time to Time in Books to be provided for the Purpose, which shall be kept by the Clerk under the Superintendence of the Commissioners, and every such Entry shall be signed by the Chairman of the Meeting at which the Proceeding took place, and such Entry so signed shall be received as Evidence in all Courts, and before all Judges, Justices, and others, without Proof of such Meeting having been duly convened or held, or of the Persons attending such Meeting having been or being Commissioners or Members of Committees respectively, or of the Signature of the Chairman, or of the Fact of his having been Chairman, all of which last-mentioned Matters shall be presumed until the contrary is proved; and such Books shall at all reasonable Times be open to the Inspection of any of the Commissioners, and of any Mortgagee of the Rates or Property of the Commissioners.

Such Books to
be open to
Inspection.

Book for
complaints :

XIX. That the Commissioners shall, at their Office, during all Days of Business, keep open a Book, in which shall be entered the reasonable Complaints made orally or by Letter by any Inhabitant or any Owner or Occupier of Premises within the Borough, of any Matter cognizable by the Commissioners; and the Surveyor or other proper Officer of the Commissioners shall forthwith inquire into the Truth of all such Complaints, and report thereon to the Commissioners Clerk, and such Report shall be entered in the said Book, and a proper Reference be thereon made from the Complaint to the Report; and such Book shall be open, at all reasonable Times, to any Inhabitant or Owner or Occupier of Premises within the Borough.

Surveyor to
enquire and re-
port thereon :

Open for
Inspection.

Liabilities and
Protection and
legal Proceedings

And with respect to the Liabilities and Protection of the Commissioners and their Officers, and legal Proceedings by and against them, be it enacted,

Sections 138, 139,
140, 148, and 150,
of 11 & 12 Vict.
c. 63, incorpo-
rated with this
Act.

XX. That the following Sections of "The Public Health Act, 1848," shall be incorporated with this Act :

The Section numbered 138 of the said Act :

Legal Proceed-
ings by or against
Commissioners.

CXXXVIII. And be it enacted, That the Local Board (*a.*) of Health of any Noncorporate District (*a.*) may sue and be sued in the Name of the Clerk for the Time being for or concerning any Contract, Matter, or Thing whatsoever relating to any Property, Works, or Things vested or to become vested in them by reason of the Pro-

(*a.*) See the Interpretation of these Terms. Section 3, page 6 ante.

visions of this Act, or relating to any Matter or Thing whatsoever entered into or done, or intended to be entered into or done, by them, under the Provisions of this Act; and in any Action of Ejectment brought or prosecuted by such Local Board it shall be sufficient to lay the Demise in the Name of the said Clerk; and in Proceedings by or on the Part of such Local Board against any Person for stealing or wilfully injuring or otherwise improperly dealing with any Property, Works, or Things belonging to them or under their Management, it shall be sufficient to state generally that the Property or Thing in respect of which the Proceeding is instituted is the Property of the said Clerk, and all legal Proceedings by, on the Part of, or against such Local Board, under this Act may be preferred, instituted, and carried on in his Name; and no Proceedings whatever shall abate or be discontinued by the Death, Resignation, or Removal of the Clerk, or by reason of any Change or Vacancy in such Local Board by Death, Resignation, or otherwise: Provided always, that the Clerk in whose Name any such Action or Suit, Complaint, Information, or Proceeding, may be brought, preferred, instituted, or defended as aforesaid, shall be fully reimbursed, out of the General District Rates to be levied under this Act, all such Costs, Charges, Damages, and Expenses as he shall or may be or become liable to pay, sustain, or be put unto by reason of his Name being so used.

(Section 20.)

Actions, &c. in Name of Clerk.

Mode of describing Property of Commissioners.

Actions, &c. not to abate.

Clerk to be reimbursed Expenses.

Also the Section numbered 139 of the same Act :

CXXXIX. And be it enacted, That no Writ or Process shall be sued out against or served upon any Superintending Inspector, or any Officer or Person acting in his Aid, or under the Direction of the General Board of Health, nor against the Local Board of Health, or any Member thereof, or the Officer of Health, Clerk, Surveyor, Inspector of Nuisances, or other Officer or Person whomsoever acting under the Direction of the said Local Board, for anything done or intended to be done under the Provisions of this Act, until the Expiration of One Month next after Notice in Writing shall have been delivered to him, or left at their or his Office or usual Place of Abode, clearly and explicitly stating the Cause of Action, and the Name and Place of Abode of the intended Plaintiff, and of his Attorney or Agent in the Cause; and upon the Trial of any such Action the Plaintiff shall not be permitted to go into Evidence of any Cause of Action which is not stated in the last-mentioned Notice; and unless such Notice be proved the Jury shall find for the Defendant; and every such Action shall be brought or commenced within Six Months next after the Accrual of the Cause of Action, and not afterwards, and shall be laid and tried in the County or Place where the Cause of Action occurred,

Notice of Action.

Notice to be proved at Trial. Limitation of Actions.

Venue.

(Section 20.)

General Issue.

Tender of
Amends, &c.Defendant's
Costs.Money may be
paid into Court.

and not elsewhere ; and the Defendant shall be at liberty to plead the General Issue, and give this Act and all special Matter in Evidence thereunder ; and any Person to whom any such Notice of Action is given as aforesaid may tender Amends to the Plaintiff, his Attorney or Agent, at any Time within One Month after Service of such Notice, and in case the same be not accepted may plead such Tender in bar, and (by Leave of the Court) with the General Issue or other Plea or Pleas ; and if upon Issue joined upon any Plea pleaded to the whole Action the Jury find generally for the Defendant, or if the Plaintiff be nonsuited or discontinued, or if Judgment be given for the Defendant, then the Defendant shall be entitled to full Costs of Suit, and have Judgment accordingly ; and in case Amends have not been tendered as aforesaid, or in case the Amends tendered be insufficient, the Defendant may, by Leave of the Court, at any Time before Trial, pay into Court, under Plea, such Sum of Money as he may think proper, and (by the like Leave) may plead the General Issue or other Plea or Pleas, any Rule of Court or Practice to the contrary notwithstanding.

Also the Section numbered 140 of the same Act :

Persons acting
in execution of
Act not to be
personally
liable.Their expenses
to be repaid.

CXL. And be it enacted, That no Matter or Thing done or Contract entered into by the Local Board of Health, nor any Matter or Thing done by any Superintending Inspector, or any Member of the said Local Board, or by the Officer of Health, Clerk, Surveyor, Inspector of Nuisances, or other Officer or Person whomsoever acting under the Direction of the said Local Board, shall, if the Matter or Thing were done or the Contract were entered into *bona fide* for the Purpose of executing this Act, subject them or any of them personally to any Action, Liability, Claim, or Demand whatsoever ; and any Expense incurred by any such Local Board, Member, Officer of Health, Clerk, Surveyor, Inspector of Nuisances, or other Officer or Person acting as last aforesaid, shall be borne and repaid out of the General District Rates levied under the Authority of this Act.

Also so much of the Section numbered 148 of the same Act as relates to obstructing the Commissioners and their Officers, or Persons employed by them, or to defacing or injuring Boards of Byelaws :

Penalty for
obstructing
Officers, defacing
Boards, &c.

CXLVIII. And be it enacted, That whosoever wilfully obstructs any Superintending Inspector, or any Member of the Local Board of Health, or any Officer or Person duly employed in the Execution of this Act, or destroys, pulls down, injures, or defaces any Board upon which any Byelaw, Notice, or other Matter is in-

scribed, shall, if the same were put up by Authority of the Local or General Board of Health, be liable for every such Offence to a Penalty not exceeding Five Pounds; (a)

(Sec. 20.21.)

Also so much of the Section numbered 150 of the same Act as relates to the Service of Notices and Proceedings on the Commissioners :

CL. And be it enacted, That any Summons, Notice, Writ, or Proceeding of any kind whatsoever to be served upon the Local Board of Health may be so served by being left at or sent through any Post Office, directed to the Local Board of Health, at their Office, or by being delivered there to the Clerk personally; (b)

Service of Notice upon Commissioners.

And the Notices required to be given to Commissioners individually shall be sufficiently given if directed to them by Name, and transmitted through the Post to their usual Place of Abode or Place of Business (if any) within the Borough.

On individual Commissioners.

And with respect to the Appointment and Accountability of Officers of the Commissioners, be it enacted,

XXI. That the following Sections of "The Public Health Act, 1848," shall be incorporated with this Act :

Officers.

Sections 37 to 40 of 11 & 12 Vict. c. 63. incorporated with this Act.

The Section numbered 37 of the said Act :

XXXVII. And be it enacted, That the Local Board of Health shall from Time to Time appoint fit and proper Persons to be Surveyor, Inspector of Nuisances, Clerk, and Treasurer for the Purposes of this Act, and shall appoint or employ such Collectors and other Officers and Servants as may be necessary and proper for the efficient Execution of this Act, and shall make Byelaws for regulating the Duties and Conduct of the several Officers and Servants so appointed or employed; and the said Local Board may pay, out of the General District Rates to be levied under this Act, to such Officers and Servants, such reasonable Salaries, Wages, or Allowances as the said Local Board may think proper; and every such Officer and Servant shall be removable by the said Local Board at their Pleasure, subject nevertheless, in the Case of the Removal of the Surveyor, to the Approval of the General Board of Health: Provided always, that the same Person may be both Surveyor and Inspector of Nuisances; but neither the Person holding the Office of Treasurer, nor his Partner, nor any Person in the Service or Employ of them or either of them, shall hold, be eligible to, or

Power to Commissioners to appoint Surveyor, Inspector of Nuisances, Clerk, Treasurer, &c.

To make Byelaws as to their duties.

Salaries, &c.

Removal of Officers.

Same Person may be Surveyor and Inspector of Nuisances, but not Clerk and Treasurer.

(a) The remainder of this Section is incorporated by Sec : 130 post.

(b) The remainder of this Section is incorporated by sec : 130 post.

(Section 21.)

shall in any Manner assist or officiate in the Office of Clerk ; and neither the Person holding the Office of Clerk, nor his Partner, nor any Person in the Service or Employ of them or either of them, shall hold, be eligible to, or shall in any Manner assist or officiate in the Office of Treasurer ; and whosoever offends in any of the Cases enumerated in this Proviso shall forfeit and pay the Sum of One hundred Pounds, which may be recovered by any Person, with full Costs of Suit, by Action of Debt.

Also the Section numbered 38 of the same Act :

Penalty upon
Officers, &c.
interested in
Contracts or
taking Fees
improperly.

XXXVIII. And be it enacted, That no Officer or Servant appointed or employed by or under the Local Board of Health shall in anywise be concerned or interested in any Bargain or Contract made with such Board for the Purposes of this Act; and if any such Officer or Servant be so concerned or interested, or shall, under colour of his Office or Employment, exact, take, or accept any Fee or Reward whatsoever, other than his proper Salary, Wages, and Allowances, he shall be incapable of afterwards holding or continuing in any Office or Employment under this Act, and shall forfeit and pay the Sum of Fifty Pounds, which may be recovered by any Person, with full Costs of Suit, by Action of Debt.

Also the Section numbered 39 of the same Act :

Officers, &c.
intrusted with
Money to give
Security, and to
account.

XXXIX. And be it enacted, That before any such Officer or Servant enters upon any Office or Employment under this Act by reason whereof he will or may be intrusted with the Custody or Control of Money, the Local Board of Health by whom he is appointed shall require and take from him sufficient Security for the faithful Execution of such Office or Employment, and for duly accounting for all Monies which may be intrusted to him by reason thereof; and every such Officer or Servant employed in the Collection of Rates under the Authority of this Act shall, within Seven Days after he shall have received any Monies on account of such Rates, pay over the same to the Treasurer, and shall, as and when the said Local Board may direct, deliver a List, signed by him, containing the Names of all Persons who have neglected or refused to pay any such Rate, and the Sums respectively due from them; and every Officer and Servant appointed or employed by or acting under the said Local Board shall respectively, when and in such Manner as shall be required by such Board, make out and deliver to them a true and perfect Account in Writing of all Monies received by him for the Purposes of this Act, and stating how, and to whom, and for what Purpose such Monies have been disposed of, and shall, together with such Account, deliver the Vouchers or Receipts for all Payments made by him, and pay over to the

Treasurer all Monies owing by him upon the Balance of Accounts ; and if any such Officer or Servant fail to render such Account, or to produce and deliver up such of the said Vouchers and Receipts as may be in his Possession or Power, or to pay over any such Monies as aforesaid, or if for the Space of Five Days after being thereunto required he fail to deliver up to the said Local Board all Papers and Writings, Property, Effects, Matters, and Things, in his Possession or Power, relating to the Execution of this Act, or belonging to such Board, then and in every such Case a Justice shall, on Complaint (a) being made to him in that Behalf, summon the Party charged to appear and answer the Complaint before Two Justices at a Time and Place to be specified in the Summons ; and upon the Appearance of the Party charged, or upon Proof that the Summons was personally served upon him, or left at his last known Place of Abode or Business, and if it appear to the last-mentioned Justices that he has failed to render any such Accounts, or to produce and deliver up any such Vouchers or Receipts, or any such Papers, Writings, Property, Effects, Matters, or Things as aforesaid, and that he still fails or refuses so to do, they may, by Warrant under their Hands and Seals, commit the Offender to Gaol, there to remain, without Bail, until he shall have rendered such Accounts, and produced and delivered up all such Vouchers, Receipts, Books, Papers, Writings, Property, Effects, Matters, and Things in respect of which the Charge was made ; (b) and if it appear that the Party charged has failed to pay over any such Monies as aforesaid, and that he still fails or refuses so to do, the last-mentioned Justices may, by a like Warrant, cause the same to be levied by Distress and Sale of his Goods and Chattels, and in default of any sufficient Distress commit him to Gaol, there to remain, without Bail, for a Period of Three Months, unless such Monies be sooner paid : Provided always, that if the Complainant, by Deposition on Oath, show to the Satisfaction of any Justice that there is probable Cause for believing that the Party charged intends to abscond, such Justice may, without previous Summons,

(Section 21)
Summary Proceedings to be taken in case of failing to account &c.

Punishment for failing to account deliver up papers, &c.

For failing to pay over monies.

Party charged intending to abscond may be apprehended, &c.

(a.) Mr. Lawes suggests that the complaint under this section is an information within Jervis' Act, 11 & 12 Vic. c. 43, sec. 6.

(b.) Mr. Lawes writes that this "and" will be construed "or;" the intention of the section does not seem to require it, or is the alteration required to give the section full effect. If it were required, it is more than doubtful in a penal section whether any alteration would be admitted. Mr. Gael in his work on "Law Composition" page 172, gives the case of an Act of Parliament being passed to correct an error of the kind, where it was almost necessary to the sense, to make a similar alteration in the reading. In the case of *Waterhouse v. Keen*, 6 D. and Ry. 257, "and" was construed "or," but that was the case of a remedial statute. This is the case of a penal section ; though it may be conceded, that it would be for the benefit of the Offender, if the word "and" were read "or," as it might raise a doubt, if he had committed both offences, viz., failed to account or deliver up books, &c., and failed to pay the monies, whether two commitments might issue against him.

(Sections
21. 22. 23.)

Surety not to be
relieved thereby.

Guarantee
Society may be
Surety.

Power to appoint
an Officer of
Health.

Remuneration.

Approval of
General Board.

Paviors, &c. may
be appointed.

Contracts.

Sections 85, 149,
and 151 of 11 and
12 Vict. c. 63.

by Warrant under his Hand and Seal, cause him to be forthwith apprehended; and in such Case the said Party shall, within Twenty-four Hours after Apprehension, be brought before the same or some other Justice, who may order that he be discharged from Custody, if such Justice think that there is no sufficient Ground for Detention, or that he be further detained until he be brought before Two Justices at a Time and Place to be named in the Order, unless Bail to the Satisfaction of the Justice be given for the Appearance of the Party before such Two Justices: Provided also, that no such Proceeding shall be construed to relieve or discharge any Surety of the Offender from any Liability whatsoever.

And the Commissioners may accept the Security of any Guarantee Society for the Fidelity of any Officer :

Also the Section numbered 40 of the same Act.

XL. And be it enacted, That the Local Board of Health may from Time to Time, if they shall think fit, appoint a fit and proper Person, being a legally qualified Medical Practitioner or a Member of the Medical Profession, to be and be called the Officer of Health, who shall be removable by the said Local Board, and shall perform such Duties as the said General Board shall direct; and the same Person may be Officer of Health for Two or more Districts; and the Local Board or Boards of Health of the District or Districts respectively for which any such Officer is appointed may pay to him, out of the General District Rates to be levied under this Act, such Remuneration by way of annual Salary or otherwise as the said Local Board or Boards may by Order in Writing determine and appoint, and (in case of a joint Appointment for Two or more Districts) in such Proportions as the said General Board may by Order in Writing determine and appoint: Provided always, that the Appointment and Removal of the Officer of Health shall be subject to the Approval of the said General Board.

XXII. That the Commissioners may from Time to Time appoint such and so many Paviors, Artificers, Workmen, Labourers, Carters, and others, and also purchase or hire such Waggons, Carts, or other Carriages, Machinery, and Implements, as they judge necessary for carrying this Act into execution.

And with respect to the Contracts, Deeds, Notices, and Documents by and to the Commissioners, be it enacted,

XXIII. That the following Sections of "The Public Health Act, 1848" shall be incorporated with this Act :

The Section numbered 85 of the said Act :

(Section 28)
incorporated
with this Act.

LXXXV. And be it enacted, That the Local Board of Health may enter into all such Contracts as may be necessary for carrying this Act into execution ; and every such Contract whereof the Value or Amount shall exceed Ten Pounds shall be in Writing, and (in the Case of a Noncorporate District) sealed with the Seal of the Local Board by whom the same is entered into, and signed by Five (a.) or more Members thereof, and (in the Case of a Corporate District) sealed with the Common Seal, and shall specify the Work, Materials, Matters, or Things to be furnished, had, or done, the Price to be paid, and the Time or Times within which the Contract is to be performed, and shall fix and specify some pecuniary Penalty to be paid in case the Terms of the Contract are not duly performed ; and every Contract so entered into, and duly executed by the other Parties thereto, shall be binding on the Local Board by whom the same is executed, and their Successors, and upon all other Parties thereto, and their Executors, Administrators, Successors, or Assigns, to all Intents and Purposes : Provided always, that the said Local Board may compound with any Contractor or other Person in respect of any Penalty incurred by reason of the Nonperformance of any Contract entered into as aforesaid, whether such Penalty be mentioned in any such Contract, or in any Bond or otherwise, for such Sums of Money or other Recompence as to such Local Board may seem proper : Provided also, that before contracting for the Execution of any Works under the Provisions of this Act the said Local Board shall obtain from the Surveyor an Estimate in Writing, as well of the probable Expense of executing the Work in a substantial Manner as of the annual Expense of repairing the same ; also a Report as to the most advantageous Mode of contracting, that is to say, whether by contracting only for the Execution of the Work, or for executing and also maintaining the same in repair during a Term of Years or otherwise : Provided also, that before any Contract of the Value or Amount of One hundred Pounds or upwards is entered into by the said Local Board Ten Days public Notice at the least shall be given expressing the Nature and Purpose thereof, and inviting Tenders for the Execution of the same ; and the said Local Board shall require and take sufficient Security for the due Performance of the same.

Contracts by
Local Board.
Particulars, &c.
of if above £10.

Binding on
Commissioners
and Successors.

Composition for
Penalties in respect
of Breach of
Contracts.

Estimates and
Report by Surveyor
to be made
before commencing
Works.

As to Contracts
above the Value
of £100.

Provided always, that the Commissioners may undertake any Work without Estimate, Contract, or other Proceeding herein required, when from urgent Cause the Commissioners deem it

Works of urgent
necessity.

(a.) Altered to 2 see Proviso post.

(Section 23.)

necessary that the Delay occasioned by such Proceedings be avoided :

Execution of
Contracts, &c. by
Commissioners.

Every Contract, Deed, Bond, Security, or other Instrument in Writing required or authorized under this Act may be entered into or executed by the Commissioners, or given to or accepted by them, in and by their Name of the *Cheltenham* Improvement Commissioners, and, unless otherwise specially directed in this Act, shall be sufficiently authenticated if signed by any Two of the Commissioners acting by the Direction and on behalf of the Commissioners ; and all Contracts to which the Commissioners are Parties, or in which they are interested, may be varied and discharged by them in the same Manner as they can be entered into :

Variation,
discharge.

Also the Section numbered 149 of the same Act :

Consents of
Board of Health
and Commission-
ers to be in
Writing.

CXLIX. And be it enacted, That whenever the Consent, Sanction, or Approval or Authority of the General Board of Health is required by the Provisions of this Act, the same shall be in Writing under their Seal and the Hands of Two or more Members thereof ; and whenever the Consent, Sanction, Approval, or Authority of the Local Board of Health is so required the same shall (in the Case of a Noncorporate District) be in Writing under their Seal and the Hands of Five or more of them, or (in case of a Corporate District) under their Common Seal.

Notices, &c. by
Commissioners
may be given by
their Officers.

And every Notice, Summons, Demand, Consent, Sanction, Approval, or Authority of or by the Commissioners under this Act, may be given or made on their Behalf by any of their Officers, and may and shall be sufficiently authenticated if signed by the Officer by whom the same is given or made, or by the Commissioners Clerk.

Exemption to
apply only to
Sections from the
Public Health
Acts.

Also the Section numbered 151 of the same Act, as to Exemption from Stamp Duty, but the same shall apply only to Instruments and Writings executed or made exclusively under the Provisions herein incorporated from the said Public Health Acts. (a.)

(a.) The wording of this addenda selecting only two words "instruments and writings," seems to prevent section 151 of the Public Health Act exempting from duty advertisements, and perhaps "appointments of officers," &c., though those appointments, &c. and advertisements be made exclusively under the provisions of the Public Health Acts ; it may be questioned if deeds, &c. relating to matter in sections, incorporated from the Public Health Act, can strictly be said to be "executed or made exclusively under the provisions herein incorporated from the said Public Health Acts," because the Public Health Act says such deeds, &c. must be signed by 5 Commissioners, but the Local Act qualifies that and says two ; so that the deed so signed by two is not in fact "executed or made exclusively under the Provisions herein incorporated" from the Public Health Act. Statutes relieving instruments from duties charged by previous Acts must be construed strictly.

CLI. And be it enacted, That no Advertisement inserted or caused to be inserted by the General or Local Board of Health in the *London Gazette* or any Paper or Publication under this Act, or for the Purpose of carrying the same into effect, nor any Deed, Award, Submission, Instrument, Contract, Agreement, or Writing, made or executed by the said General or Local Board, their Officers or Servants, under or for the Purposes of this Act, nor any Appointment by the General or Local Board of any Officer or Person under this Act, shall be chargeable with any Stamp Duty whatever; (Sections 23. 24. 25.)
Exemptions from Stamp Duty.

XXIV. That the Commissioners shall cause a Seal to be made for their Use in executing this Act, and Documents or Copies of Documents purporting to proceed from the Commissioners, and to be signed by any Two or more of them, and to be sealed or stamped with such Seal, shall be received as Evidence in all Courts and Places whatsoever. (a.) Common Seal.
Documents and copies under, to be evidence.

And with respect to the making of Byelaws, be it enacted, Byelaws.

XXV. That the following Sections of "The Public Health Act, 1848," shall be incorporated with this Act: Sections 115 and 116 of 11 and 12 Vict. c. 63, incorporated with this Act.

The Section numbered 115 of the said Act:

CXV. And be it enacted, That all Byelaws made by the Local Board of Health under and for the Purposes of this Act shall be in Writing under their Seal, and the Signature of any Five (b.) or more of their Number, or (in the Case of a Corporate District) under the Common Seal; and the said Local Board may by any such Byelaws impose upon Offenders against the same such reasonable Penalties as they shall think fit, not exceeding the Sum of Five Pounds for each Offence, and in the Case of a continuing Offence a further Penalty not exceeding the Sum of Forty Shillings for each Day after written Notice of the Offence from the said Local Board; and the said Local Board may alter or repeal any such Byelaws by any subsequent Byelaws, sealed and signed or (in case of a Corporate District) sealed, as last aforesaid: Provided always, that all such Byelaws imposing any Byelaws of Commissioners to be sealed. &c.
May impose penalties.
May be altered, &c.
Mode of fixing amount of Penalty.

(a.) This section overcomes some of the difficulties under which Local Boards of noncorporate districts labour, but it would seem that though like Local Boards the Commissioners may take and hold Lands as a Corporate Body, (see section 84 of the Public Health Act incorporated by section 26) they are not a Corporate Body for all other purposes. They must sue and be sued in the name of their Clerk; query could they file a bill or present a petition under their Common Seal in Chancery as "The Cheltenham Improvement Commissioners," or must they file or present it in the name of their Clerk; See *ex parte the Local Board of Llanelly in V. C. Kindersley's Court*, 29th of January, 1853, 17 Jurist 107.

(b.) The Proviso in the 23rd section ante, page 38 enacts that "every contract, deed, bond, security, or other instrument in writing" should be sufficiently authenticated if signed by two Commissioners. Query, would it affect Bye Laws, aided by the 24th section?

(Section 25.)

Not to be repugnant to Law.

Confirmation of.

Notice of confirmation, &c.

Inspection by ratepayers.

Copies supplied to ratepayers.

Proposal to make, &c.

Notice of before making.

Penalty shall be so framed as to allow of the Recovery of any Sum less than the full Amount of the Penalty : Provided also, that no such Byelaws shall be repugnant to the Laws of *England* or to the Provisions of this Act, and the same shall not be of any Force or Effect unless and until the same be submitted to and confirmed by One of Her Majesty's Principal Secretaries of State, who is hereby empowered to allow or disallow the same, as he may think proper : Provided also, that no such Byelaws shall be confirmed unless Notice of Intention to apply for Confirmation of the same shall have been given in One or more of the public Newspapers usually circulated within the District to which such Byelaws relate One Month at least before the making of such Application ; and for One Month at least before any such Application a Copy of the proposed Byelaws shall be kept at the Office of the Local Board of Health, and be open during Office Hours thereat to the Inspection of the Ratepayers of the District to which such Byelaws relate, without Fee or Reward ; and the Clerk shall furnish every such Ratepayer who shall apply for the same with a Copy thereof or of any Part thereof, on Payment of Sixpence for every One hundred Words contained in such Copy.

Provided also, that no such Byelaw shall be made unless the same shall have been proposed and formed at a Meeting of the Commissioners held at some Time not less than One Calendar Month before the making of such Byelaw, and shall have been publicly made known, and Notice of the Day of Meeting for making the same shall have been given in some or One of the Newspapers published or circulated within the Borough, Three Weeks before the holding of the Meeting at which such Byelaw shall be finally made and agreed on :

Also the Section numbered 116 of the same Act :

Byelaws to be printed, &c.

Copies delivered to ratepayers.

Hung up at Magistrates Office, &c. and given to Officers, &c.

CXVI. And be it enacted, That all Byelaws made by the Local Board of Health in pursuance of this Act shall be printed, and hung up in the Office of the said Local Board ; and Copies thereof shall be delivered to any Ratepayer of the District to which such Byelaws relate, upon his Application for the same.

And Copies of all Byelaws in force shall be hung up at the Magistrates Office and in the Market Place of *Cheltenham* ; and a Copy of such Byelaws shall be given to every Officer and Servant of and Person licensed by the Commissioners affected thereby ; and the Copies hereby required to be hung up of such Byelaws shall be renewed from Time to Time, when necessary, so that

(Sec. 25.26.)

the same shall be always clear and legible.

And with respect to the Commissioners Purchase and taking of and Entry on Lands, and the Compensation to be paid by the Commissioners for Damage done by them in execution of the Powers of this Act, be it enacted,

Lands, Purchase of and Entry on.

XXVI. That the following Sections of "The Public Health Act, 1848," shall be incorporated with this Act :

Sections 84, 143, 144, and 71 of 11 and 12 Vict. c. 63 incorporated with this Act.

The Section numbered 84 of the said Act :

LXXXIV. And be it enacted, That the Local Board of Health, by Agreement, may purchase, or take upon Lease, sell, or exchange, any Lands or Premises for the Purposes of this Act; and the Lands Clauses Consolidation Act, 1845, (a.) except the Parts and Enactments of that Act with respect to the Purchase and taking of Lands otherwise than by Agreement, and with respect to the Recovery of Forfeitures, Penalties, and Costs, and with respect to Lands acquired by the Promoters of the Undertaking, but which shall not be wanted for the Purposes thereof, shall, in so far as the same is consistent with this Act, be incorporated with this Act; and for the Purposes of this Act the Expression "the Promoters of the Undertaking," wherever used in the said Lands Clauses Consolidation Act, shall mean the Local Board of Health mentioned in this Act; and all Lands and Premises which shall be purchased, hired, or taken on Lease by the Local Board of Health of any Noncorporate District shall be conveyed, demised, and assured to such Local Board and their Successors, in trust for the Purposes of this Act, and shall be accepted, taken, and held by them as a Body Corporate.

Power to Commissioners to purchase Lands, &c. under 8 and 9 Vict. c. 18.

Lands Clauses Act.

And to hold as a Body corporate.

(a.) The Parts of the Lands Clauses Consolidation Act excepted by this section, are

1st.—The compulsory Powers, included in sections 16 to 68 both inclusive, which Powers are incorporated hereafter by section 28 page 44 post, and see note to that section. And part of which powers are in effect incorporated by section 77 of the Towns Improvement Clauses Act, incorporated by section 86 post.

2nd.—The Provisions relating to the recovery of Penalties, &c. included in sections 136 to 149 both inclusive. And

3rd.—The Powers to sell the superfluous Lands included in sections 137 to 155, both inclusive; The 13th section of the Lands Clauses Consolidation Act, will authorise the sale and re-purchase of Lands acquired by the Commissioners. The whole of the Lands Clauses Consolidation Act, containing 153 sections, being with the exception of the 23 sections, above alluded to in the 2nd and 3rd divisions incorporated with the Cheltenham Improvement Act, would in itself be sufficient reason for inserting the Act in full in the appendix, and drawing attention to the parts excepted; but it will be observed that the Public Baths and Lodging Houses Acts (the powers contained in which the Commissioners may exercise,) incorporate into their Acts the whole of the Lands Clauses Consolidation Act, but the Commissioners in each Act are restricted from purchasing or taking lands otherwise than by agreement. The Lands Clauses Consolidation Act will therefore be found in the appendix, No. 6, in full.

(Section 26)

Also the Section numbered 143 of the same Act :

Entry upon
Lands for the
Purposes of this
Act.

By order of
Justices, if owner,
&c. refuse.

Time of entry, &c.

Notice of inten-
ded entry except
on emergencies.

CXLIII. And be it enacted, That in case it shall become necessary to enter, examine, or lay open any Lands or Premises for the Purpose of making Plans, surveying, measuring, taking Levels, examining Works, ascertaining the Course of Sewers or Drains, or ascertaining or fixing Boundaries, and the Owner or Occupier of such Lands or Premises shall refuse to permit the same to be entered upon, examined, or laid open for the Purposes aforesaid or any of them, the Local Board of Health may, upon Notice to such Owner or Occupier, apply to Two Justices for an Order authorizing the Members of such Local Board, and the Superintending Inspector, Surveyor, and Inspector of Nuisances, or any of them, to enter, examine, and lay open the said Lands and Premises for the Purposes aforesaid or any of them, and if no sufficient Cause shall be shown against the same the said Justices may make an Order authorizing the same accordingly, and thereupon any Superintending Inspector, the Local Board of Health, or any Member thereof, the Surveyor, and Inspector of Nuisances, and any Person authorized by any such Superintending Inspector, Local Board, Surveyor, or Inspector of Nuisances, may, at all reasonable Times between the Hours of Ten in the Forenoon and Four in the Afternoon, enter, examine, or lay open the Lands or Premises mentioned in such Order, for such of the said Purposes as shall be specified in the said Order, without being subject to any Action or Molestation for so doing: Provided always, that, except in case of Emergency, no Entry shall be made or Works commenced under the Powers of this Enactment unless Twenty-four Hours at the least previously thereto Notice of the intended Entry, and of the Object thereof, be given to the Occupier of the Premises intended to be entered.

Also the Section numbered 144 of the same Act :

Compensation in
case of Damage
by Commission-
ers.

CXLIV. And be it enacted, That full Compensation shall be made, out of the General or Special District Rates to be levied under this Act, to all Persons sustaining any Damage by reason of the Exercise of any of the Powers of this Act; and in case of Dispute as to Amount the same shall be settled by Arbitration in the Manner provided by this Act, or if the Compensation claimed do not exceed the Sum of Twenty Pounds, the same may be ascertained by and recovered before Justices in a summary Manner.

Also the Section numbered 71 of the same Act :

Power to require
Gas and Water
Pipes to be
moved.

LXXI. And be it enacted, That if and when for the Purposes of this Act the Local Board of Health deem it necessary to raise,

sink, or otherwise alter the Situation of any Water or Gas Pipes, Mains, Plugs, or other Waterworks or Gasworks laid in or under any Street, they may by Notice in Writing require the Person to whom the Pipes, Mains, Plugs, or Works belong to raise, sink, or otherwise alter the Situation of the same in such Manner and within such reasonable Time as shall be specified in such Notice, and the Expenses attendant upon or connected with any such Alteration shall be paid by the said Local Board out of the General District Rates levied under this Act; (a.) and if such Notice be not complied with, the said Local Board may make the Alteration required: Provided always, that no such Alteration shall be required or made which will permanently injure any such such Pipes, Mains, Plugs, or Works, or prevent the Water or Gas from flowing as freely and conveniently as usual; provided also, that where under any Local Act of Parliament the Expenses attendant upon or connected with the raising, sinking, or otherwise altering the Situation of any Water or Gas Pipes, Mains, Plugs, or other Waterworks or Gasworks, are or shall be directed to be borne by the Person to whom such Pipes or Works belong, his Liability in that respect shall continue, in the same Manner and under the same Conditions in all respects as if this Act had not been passed.

(Sec. 26.27.)

Expenses of.

Alteration must not occasion permanent injury.

Expenses of in certain cases.

And this Section shall extend to authorize the Commissioners to require the Alteration and to alter the Line, Level, or Situation of any of the Drains or Sewers saved from vesting in the Commissioners under this Act: Provided always, that no such Alteration shall be required or made as would permanently prevent the Sewage from flowing as freely and conveniently as usual in and along any such Drain or Sewer; and that during the Progress of the Works of such Alteration adequate Means shall be provided by the Commissioners for the Discharge or Passage of Sewage in lieu of the Drain or Sewer so altered.

As to Alteration of excepted Sewers.

No permanent injury from.

XXVII. That during the Time any Street is new paving, flagging, or repairing, or any Sewers or Drains or Pipes therein are under Construction, placing, or Reparation, the Commissioners may order the Materials necessary for such Purposes to be lodged in that or any adjoining Street, according to their Discretion, and may also stop the Way through that or any adjacent Street so long as they judge necessary.

Depositing Materials by Commissioners during repairs, &c.

(a.) No provision is made for the summary recovery of these expenses. See note (a) to page 39 ante, and see section 87 of the Public Health Act, incorporated by section 114 post, as to the fund from which the Commissioners are to pay such expenses.

(Sec. 28.29.)
Power to
Commissioners
to take and use
Lands described
in Plans, &c. for
constructing
Works, &c.

Compensation.

Lands Clauses
Act partly incor-
porated.

Limit of Powers
as to Moor's
Farm.

Errors or
Omissions in
Plans may be
corrected by
Justices, who
shall certify the
same.

Certificate to be
deposited.

XXVIII. That the Commissioners are empowered to take and use, for the Purpose of making and constructing the Tanks and Works connected therewith, and Sewers especially authorized to be made by this Act, all or any of the Lands described in the Plans and Book of Reference as to such Works deposited with the Clerk of the Peace for the County of *Gloucester*, or any Easement or Right therein, with or without the Consent of the Owners and Occupiers thereof; and the Commissioners shall make to the Owners and Occupiers of and all other Persons interested in such Lands, when taken or used, full Compensation for the Value of the Land, Easement, or Right taken, and for all Damage sustained by such Owners and Occupiers or other Persons by reason of the Exercise by the Commissioners of this Power; and as to such Lands, Easements, and Rights, the Provisions of "The Lands Clauses Consolidation Act, 1845," (a.) with respect to the Purchase and taking of Lands otherwise than by Agreement, shall be incorporated with this Act, as well as those Provisions of the said Act already herein incorporated by Reference to Section 84 of "The Public Health Act, 1848:" Provided always, that no more than Two Acres and a Half of Land shall at any Time be taken for the Tank at the *Moor's Farm* herein-after mentioned, and the Works connected therewith, exclusive of the Road to be made therefrom to the *Arle* Highway.

XXIX. That if any Omission, Mis-statement, or wrong Description be made of any Lands, or of the Owners, Lessees, and Occupiers of any Lands described on the Plans or Books of Reference so deposited as aforesaid, it shall be lawful for the Commissioners, after giving Ten Days Notice to the Owners and Occupiers of the Land affected by such proposed Correction, to apply to Two Justices for the Correction thereof; and if it shall appear to such Justices that such Omission, Mis-statement, or erroneous Description arose from Mistake, they shall certify the same accordingly, and they shall in such Certificate state the Particulars of any such Omission, and in what respect any such Matter shall have been mis-stated or erroneously described; and such Certificate shall be deposited with the Clerk of the Peace for the County of *Gloucester*, and shall be kept by such Clerk of the Peace with the other Documents to which it relates, and

(a.) See this Act in full, post, appendix No. 6. The compulsory powers here incorporated include sections 16 to 68, both inclusive; it may be well to recur here to the 123rd section of the "Lands Clauses Consolidation Act," which limits the time for compulsory purchase to "three years, from the passing of the special Act." See note to section 84 of the Public Health Act, incorporated by section 26 ante, page 41.

thereupon such Plan or Book of Reference shall be deemed to be corrected according to such Certificate, and it shall be lawful for the Commissioners to make the Works according to such Certificate. (Sections 29.
30. 31.)

XXX. That it shall be lawful for the Commissioners to deviate from the Levels of such Works respectively as shown on the said deposited Plans and Sections to the Extent of Five Feet only, and no more, unless with the previous Consent in Writing of the Owners and Occupiers of the Land in which such Deviation is to be made; and it shall be lawful for the Commissioners to deviate from the Lines of such Works as delineated on the said Plans to the Extent shown thereon, and no more, unless with the previous Consent in Writing of the Owners and Occupiers of the Land into which such Deviation may extend, provided that the Works shall not by means of any such Deviation as herein-before authorized be made to extend unto the Lands of any Person, whether Owner, Lessee, or Occupier, whose Name is not mentioned in the Book of Reference, without the previous Consent in Writing of such Person, unless the Name of such Person shall have been omitted by Mistake, and the Fact that such Omission proceeds from Mistake shall have been certified in the Manner provided for by this Act in Cases of unintentional Errors in the said Books of Reference. Power to deviate
from the Line and
Levels shown on
Plan and
Sections.

And with respect to the Maps or Plans of the Borough, and of the underground Works therein, and Works to be executed by virtue of this Act, be it enacted, Maps.

XXXI. That the Section numbered 41 of "The Public Health Act, 1848," shall be incorporated with this Act; and on the Map made under the said Section shall be marked as well the Course of the Commissioners Sewers and other Sewers, as of Water and Gas Pipes and other underground Works, so far as the same can be traced: Section 41 of
11 and 12 Vict. c.
68. incorporated
with this Act.

XLI. And be it enacted, That the said Local Board of Health may, if they shall think fit, cause to be prepared, or to (a) procure, a Map exhibiting a System of Sewerage for effectually draining their District for the Purposes of this Act, upon a Scale to be Map exhibiting
System of Sewer-
age.

(a) Mr. Lawes has the following note to this Section. The word "to" ought to have been struck out. The clause as originally framed, and as it left the House of Commons, ran thus:—"That it shall be lawful for the Local Board of Health to cause to be prepared, or to procure a map," &c. The Lords amended this and other clauses by expressing permissive powers by the word "may" instead of by the words "it shall be lawful," and the imperative duties by the word "shall" instead of by the words "it shall be the duty." This explanation will at once account for the error in the text, and for another of a similar kind in sec. 46, incorporated by sec. 53 post,

(Sec. 31.32.)
Open for In-
spection.

prescribed by the General Board of Health ; and every such Map shall be kept at the Office of the said Local Board, and shall at all reasonable Times be open to the Inspection of the Ratepayers of the District to which it applies.

May be
Published.

And the Commissioners may, if they think fit, cause such Map or Plan to be copied, engraved, and published :

Extend beyond
Borough.

And in the Survey may also be included any Places adjoining the Borough which the Commissioners may think necessary to include for the Purpose of exhibiting the Boundaries and Precincts thereof :

May show Levels,
&c.

And the Commissioners may also cause Lines of equal Altitude to be marked on such Plan at proper Intervals, and may also cause proper Bench Marks for denoting the Levels to be inscribed and marked at convenient Distances and Places at the Corners of Streets, and on Posts, Houses, and other prominent Objects in the Borough :

And the Section numbered 42 of the same Act shall be incorporated with this Act.

Expense of
Surveys. &c.

XLII. And be it enacted, That the Expense of Surveys, Maps, or Plans made, prepared, or procured by the Local Board of Health for the Purposes of this Act shall be defrayed out of the General District Rates to be levied under this Act.

Sewers.

And with respect to making and maintaining the Public Sewers, be it enacted,

Sections 43 and
44 of 11 and 12
Vict. c. 63. in-
corporated with
this Act.
Sewers, &c.
vested in Local
Board.

XXXII. The Section numbered 43 of "The Public Health Act, 1848," shall be incorporated with this Act :

Except certain.

XLIII. And be it enacted, That all Sewers, whether existing at the Time when this Act is applied or made at any Time thereafter, (except Sewers made by any Person or Persons for his or their own Profit or for the Profit of Proprietors or Shareholders, and except Sewers made and used for the Purpose of draining, preserving, or improving Land under any Local or Private Act of Parliament, or for the Purpose of irrigating Land, and Sewers under the Authority of any Commissioners of Sewers appointed by the Crown,) together with all Buildings, Works, Materials, and Things belonging or appertaining thereto, shall vest in, belong to, and be entirely under the Management and Control of the Local Board of Health.

Use of excepted
Sewers.

And with regard to the Sewers excepted in that Section, the Commissioners shall nevertheless have Power to cause Sewers and

Drains to open into and communicate with any of such Sewers, on paying the Owners thereof full gross annual or other Compensation, to be settled in case of Dispute by Arbitration, under this Act: (Section 32.)

Also the Section numbered 44 of the same Act shall be incorporated with this Act:

XLIV. And be it enacted, That the Local Board of Health may, if they shall think fit, purchase the Rights, Privileges, Powers, and Authorities vested in any Person for making Sewers, or contract for the Use of any Sewers within their District, or purchase any such Sewers, with or without the Buildings, Works, Materials, and Things belonging or appertaining thereto; and any Person to whom any such Rights, Privileges, Powers, Authorities, Sewers, Buildings, Works, Materials, or Things belong may sell and dispose of the same to or otherwise contract with the said Local Board; and in case of any such Sale the Purchase Money shall be settled and applied to the same Uses and Trusts to which the Property purchased may have been subject at the Time of such Sale, and the Property purchased shall vest in and belong to the Local Board of Health purchasing the same, anything to the contrary notwithstanding: Provided always, that, notwithstanding any such Purchase, any Person who previously thereto may have acquired perpetual Right to use any Sewer so purchased shall be entitled to use the same, or any other Sewer substituted in lieu thereof, in as full and ample a Manner as he would or might have done if such Purchase had not been made.

Power to purchase, or contract for the use of certain Sewers.

Application of purchase money

Rights reserved.

And the said Section shall extend to the Purchase by the Commissioners of the Sewers, Works, Rights, Privileges, and Authorities vested in or belonging to the Company (a.) established by a Local Act passed in the Third Year of the Reign of King William the Fourth, intituled *An Act for the better Sewage, cleansing, and draining of the Town of Cheltenham in the County of Gloucester*, anything in the said Act contained to the contrary notwithstanding; and in case of any such Purchase being made, all Privileges, Rights, Powers, and Authorities to make Sewers

Provision in case of Purchase of Sewers of the Cheltenham Sewers Company, 3 W. 4. c. xxi. (Local.)

(a.) The Commissioners appointed a Committee to open negotiations with the Sewers Company for the purchase of their Works, &c, which Committee proposed to the Committee of management of the Company to recommend to the Commissioners the purchase of the Company's Sewers, &c. at £12,700, (the price formerly agreed to by the Promoters of the Bill of 1851, sanctioned by the General Board of Health under the approval of their own Surveyor, agreed to by the Town, and confirmed by the House of Commons; but the House of Lords, to the surprise of all, rejected it.) The Committee of Management of the Sewers Company, after correspondence, &c., agreed as such Committee and so far as their powers extended to the price, and the Commissioners Committee reported in favour of the price, but the Commissioners have declined to confirm the Report.

(Section 33.) under the said Local Act shall thereafter cease ; and in case the said Company should be dissolved or cease to exist, all the Sewers and Works made by virtue of that Act shall thenceforth vest in the Commissioners for the Purposes of this Act.

Dissolution of
Company.

Sections 45 to
48 of 11 and 12
Vict. c. 63. in-
corporated with
this Act.

XXXIII. That the following Sections of "The Public Health Act, 1848," shall be incorporated with this Act :

Sec. 45 extended
to Sewers not
vested, &c. in
Commissioners.

The Section numbered 45 of the said Act ; and this Section shall extend to the Works of Reconstruction, Reparation, Discontinuance, Improvement, Diversion, or Alteration of Sewers or Drains by the Commissioners, as and when authorized by this Act, whether such Sewers or Drains may or may not be vested in the Commissioners or made or acquired by them under this Act :

Repairing,
Making,
Alteration, and
Discontinuance
of Sewers vested
in Commissioners

XLV. And be it enacted, That the Local Board of Health shall from Time to Time repair the Sewers vested in them by this Act, and shall cause to be made such Sewers as may be necessary for effectually draining their District for the Purposes of this Act ; and the said Local Board may carry any such Sewers through, across, or under any Turnpike Road, or any Street or Place laid out as or intended for a Street, or under any Cellar or Vault which may be under the Pavement or Carriageway of any Street, and, after reasonable Notice in Writing in that Behalf, (if upon the Report of the Surveyor it should appear to be necessary,) into, through, or under any Land whatsoever ; and the said Local Board may from Time to Time enlarge, lessen, alter, arch over, or otherwise improve all or any of the Sewers vested in them by this Act, and discontinue, close up, or destroy such of them as they may deem to have become unnecessary : Provided always, that the Discontinuance, closing up, or Destruction of any Sewer shall be so done as not to create a Nuisance ; and if by reason thereof any Person is deprived of the lawful Use of any Sewer the said Local Board shall provide some other Sewer as effectual for his Use as the one of which he is so deprived.

Discontinuance,
&c. not to be a
Nuisance.

Also the Section numbered 46 of the same Act ; and this Section shall extend to the Maintenance and Reparation by the Commissioners of their Sewers, Tanks, and Works :

As to cleansing
and emptying
Sewers, &c. by
Local Board.

XLVI. And be it enacted, That the Local Board of Health shall cause the Sewers vested in them by this Act to be constructed, covered, and kept so as not to be a Nuisance or injurious to Health, and to be properly cleared, cleansed, and emptied ; and for the Purpose of clearing, cleansing, and emptying the same they may construct and place, either above or under ground, such Reser-

voirs, Sluices, Engines, and other Works as may be necessary, and (Secs. 33.34) may cause all or any of such Sewers to communicate with and be emptied into such Places as may be fit and necessary, or to (a.) cause the Sewage and Refuse therefrom to be collected for Sale for any Purpose whatsoever, but so as not to create a Nuisance.

Also the Section numbered 47 of the same Act:

XLVII. And be it enacted, That it shall not be lawful to cause any Sewer or Drain to communicate with or to be emptied into any Sewer of the Local Board of Health, nor to cause any Building to be newly erected over any such last-mentioned Sewer, nor to cause any Vault, Arch, or Cellar to be newly built or constructed under the Carriageway of any Street, without the written Consent of the said Local Board first had and obtained; and whosoever offends against this Enactment shall forfeit to the said Local Board the Sum of Five Pounds, and a further Penalty of Forty Shillings for every Day during which the Offence is continued after Notice in Writing from them in this Behalf; and if any Sewer, Drain, Building, Vault, Arch, or Cellar be made, erected, or constructed contrary to this Enactment, the said Local Board may cause the same to be altered, pulled down, or otherwise dealt with as they may think fit, and the Expenses incurred by them in so doing shall be repaid to them by the Offender, and be recoverable from him in the summary Manner herein-after provided.

Penalty for making unauthorized Sewers, and building over Sewers and under Streets.

Alteration of such.

Also the Section numbered 48 of the same Act.

XLVIII. And be it enacted, That any Owner or Occupier of Premises adjoining or near to but beyond the Limits of any District may cause any Sewer or Drain of or from such Premises to communicate with any Sewer of the Local Board of Health, upon such Terms and Conditions as shall be agreed upon between such Owner and Occupier and such Local Board, or, in case of Dispute, as shall be settled by Arbitration in the Manner provided by this Act.

Use of Sewers by persons beyond District.

XXXIV. That for the Purpose of the Sewerage and Drainage of the Town the Commissioners shall make and construct the following Works; (that is to say,)

Power to Commissioners to construct the Works herein mentioned.

A Main Sewer commencing at or near a Point situate near the River *Chelt* adjoining the *Old Bath Road* in the said Parish, and terminating in the Reservoir or Tank first herein-after mentioned;

Chelt Main Sewer.

And also a Main Sewer commencing at or near a Point situate in the *Evesham Road* near the *Pittrille Bridge* in the said Parish,

Wyman's Brook Main Sewer.

(a.) See note to section 41 of the Public Health Act, section 31 ante, page 45.

(Secs. 84.35) and terminating in a Junction with the Main Sewer before described at or near a Point situate in a Field also in the said Parish on the North Side of the River *Chelt* near the *Lower Alstone Mill*, and in the Occupation of Mr. *John Davis* ;

Chelt Tank.

And also a Reservoir or Tank, Overflow Drain, and Works connected therewith, at or near the River *Chelt* on the North Side thereof in a Field near the *Moor's Farm* in the Parish of *Cheltenham*, in the Occupation of Mr. *John Yearsley*, for the Purpose of receiving the Sewage of the said Two Main Sewers ;

Hatherley Brook Main Sewer.

And also a Main Sewer commencing at or near a Point situate in a Field on the South Side of *Hatherley Court* in the said Parish, and in the Occupation of *James Webster Esquire*, and terminating in the Reservoir or Tank next herein-after mentioned ;

Hatherley Brook Tank.

And also a Reservoir or Tank, Overflow Drain, and Works connected therewith, at or near the *Hatherley Brook* on the South Side thereof in a Field adjoining the *Bristol and Birmingham Railway*, and in the Occupation of Mr. *Hawkins*, for the Purpose of receiving the Sewage and Drainage now running in the said *Hatherley Brook* ;

As delineated and shown in the Plan and Section (a.) which, together with a Book of Reference containing the Names of the Owners, Lessees, and Occupiers, or reputed Owners, Lessees, and Occupiers of the Lands in, through, or upon which the same are intended to be made or executed, have been deposited with the Clerk of the Peace for the County of *Gloucester*.

Commissioners to construct Tanks, &c. and to keep in repair Works for Accommodation of Lands adjoining.

XXXV. That the Commissioners shall construct and place the said Tanks and Reservoirs, and make and for ever maintain and keep in repair Works for the Accommodation of the Lands adjoining the same Works, as herein-after mentioned ; (that is to say,)

Tank, &c. at Moor's Farm.

For the Tank at the *Moor's Farm* and the Works connected therewith (exclusive of the Road intended to be made therefrom to the *Arle Highway*), the Land shall be taken from the Field marked 4 on the said Plan in such Manner as to leave a Piece of Land not purchased in the said Field of at least Eighteen Feet on the East Side of the Land purchased, and another Piece of Land not purchased in the said Field of at least Two hundred

(a.) The General Board of Health on a Report from their Surveyor in favour of these Works have, it appears, sanctioned the Commissioners' intentions to commence them.

and thirty Feet on the West Side of the Land purchased, and adjoining and running by the Side of the Brook to the Western Hedge of the said Field; nevertheless the Commissioners shall be at liberty to carry the Overflow Drain from the said Tank under the Surface of the said last-mentioned Part of the said Field; and the Land so taken shall be fenced from the adjoining Land on the North and West Sides with a Fourteen-Inch Brick Wall of the Height of Eight Feet above the Surface of the Ground, and on the other Sides by a like Wall or by a Quickset Hedge raised on a Mound Five Feet high; the Road from the Tank to the *Arle* Highway shall be made on and along the Eastern Side or Extremity of the Field marked 2 on the said Plan, and shall not be more than Thirty Feet in Width between the Fences, and such Fences shall be a double Quickset Hedge on either Side thereof, the Proprietors and Occupiers of the Land Part of *Moor's Farm* lying on either Side of the Tank Inclosure to have the Right of using at all Times and for all Purposes the said Road; the Commissioners shall put up and for ever maintain a substantial Gate and Posts at the Northern Extremity of the said Strip of Land of Eighteen Feet in Width, for the Use of the Owners and Occupiers of the said Farm:

In the *Hatherley Brook* Tank, and the Works connected therewith, the Land shall be taken from the Field marked 8 in the said Plan, in such Manner as to leave a Space not purchased of One hundred and thirty Feet adjoining and by the Side of the *Hatherley Brook* on the West Side of the Land taken; nevertheless the Commissioners shall be at liberty to carry the Overflow Drain from the Tank under the Surface of the last-mentioned Part of the said Field, such Overflow Drain to be carried on to the Arch or Culvert belonging to the Railway Company, the Land to be so taken to be fenced from the adjoining Parts of the said Field with a double Quickset Hedge; the Road from the said Tank to *Hatherley Lane* to be made of such Width as the Commissioners determine, such Road not to be fenced in whole or in part on either Side unless the Proprietor of the Land on One Side or both Sides of the said Road shall by Writing under his Hand require the Commissioners to fence the same; and if any Fence should be so required, the same shall be a double Quickset Hedge; and Gates shall be placed in such Fences on either Side, so as to give free Access for Cattle and Carriages across the said Road from One Part of the said Field to the other;

Tank, &c. at
Hatherley Brook.

(Secs. 35, 36)

and the Proprietor and Occupier for the Time being of the said Land on either Side of the said Road shall have the Use of the same Road at all Times and for all Purposes; the Quickset Hedges herein-before specified to be protected by Wooden Posts and Rails until the same be grown up :

Tanks, &c. to be covered, &c.

The aforesaid Tanks to be covered Tanks, and no open Tank or Reservoir to be allowed at any Time; and the best and most effectual Means shall be taken by the Commissioners at all Times to prevent Nuisance and Annoyance to the adjoining Land belonging to the same Proprietors respectively, and the Owners and Occupiers thereof for the Time being; and the Soil taken out of the Tanks and placed upon the Land to be purchased to be removed therefrom from Time to Time by the Commissioners with all practicable Expedition.

Power to Commissioners to construct Branch Drains and new Outlets.

XXXVI. That the Commissioners shall make all proper Sewers and Drains to communicate with the said intended Main Sewers, and stop up the present Outlet of the Main Sewers of the *Cheltenham Sewers Company*, and any other Sewers or Drains which at present open or discharge their Contents into the said Brook or River *Chelt*, *Wyman's Brook*, and *Hatherley Brook*, or either of them, and shall divert the Course thereof, and make new Outlets thereto, so that the same shall open or discharge their Contents mediately or immediately into one or other of the said intended Main Sewers or Tanks as completely and effectually as they are now discharged into the said Brooks; and as well for the Purpose of the aforesaid Works as for making any Communication whatever at any Time or Times hereafter to the said intended Main Sewers, the Commissioners may lay or carry any Trunks, Syphons, or Pipes across, under, or over the said Brooks :

Provisions for Protection of Cheltenham Sewers Company.

Provided, that if at any Time hereafter it shall appear that the Sewers and Works of the Commissioners hereby authorized are not sufficient to allow good and sufficient Outlets for the Drainage and Sewerage of the Main Sewer of the *Cheltenham Sewers Company*; then the Commissioners shall make and execute further and other Sewers, Drains, and Works, so as to allow the Main Sewer of the said Company to communicate with and discharge its Contents through the Main Sewers of the Commissioners, and effectually to carry off the Drainage and Sewerage from the Sewers of the said Company; and that during the Progress of such new or further Works adequate Means shall be provided by the Commissioners for the Discharge of the Sewerage of the

Company at the Outlet of their Main Sewer; and if any Questions shall arise between the *Cheltenham* Sewers Company and the Commissioners as to the Sufficiency and Efficacy of the Works of the Commissioners for effecting the Purposes of Drainage and Sewerage as aforesaid, or as to the Construction of new or further Works for the Purpose, the Question shall be referred to Arbitration in the Manner provided by the Public Health Act, 1848, with respect to the Settlement of Disputes by Arbitration. (a.)

(Secs. 36.37)
Questions to be
settled by Arbitration.

XXXVII. That if at any Time after a Main or other Sewer is made, instead of either of the said Brooks, any Person shall sewer or drain, or cause or permit to be sewered or drained, any Premises into any Part of such Brooks (b.) whereunto or along which such Main or other Sewer shall extend, or in any Manner pollute or contaminate the Waters of the same Part of such Brooks, he shall for every Day during which or any Part of which such sewerage or draining, Pollution or Contamination continues, forfeit a Penalty not exceeding Forty Shillings:

Penalty for
sewerage into
Brooks after
Sewers are constructed.

And it shall be lawful for the *Cheltenham* Sewers Company established by the aforesaid Local Act of the Third Year of King *William* the Fourth to cause any of their present or future Main Sewers to open and discharge their Contents into any of the Main Sewers of the Commissioners made in lieu of the Brooks, and for that Purpose at all Times to make such Communications as may be proper and requisite, and from Time to Time to repair and amend the same, the said Sewers Company giving to the Commissioners Six Days Notice in Writing of their Intention to make or alter any such Communication, and describing in such Notice, or by some Plan annexed thereto, the Mode in which such Communication or Alteration is proposed to be made, and the said Company making the same to the Satisfaction of the Commissioners Surveyor, and the said Company also making good any Damage which may thereby be occasioned to any of the Sewers or Works of the Commissioners: Provided always, that no Communication or Alteration shall be required by the said Company which would prevent the Sewage from flowing as freely and conveniently as usual along the Sewers of the Commissioners.

Power for the
Cheltenham
Sewers Company
to make Communications with
the Sewers of the
Commissioners.

(a.) These provisions are all incorporated by section 126 of this Act, post.

(b.) See the 7th section of the Nuisances Removal Act, post, appendix No. 3, prohibiting future drainage into open ditches, watercourses, &c. "so as to be a nuisance or injurious, &c."

54 CLEANSING BROOKS. REPAIRING, &c. PRIVATE SEWERS.

(Sections
38. 39. 40.)
Power to cleanse
Brooks.

XXXVIII. That it shall be lawful for the Commissioners from Time to Time to cleanse the said Brook or River *Chelt*, *Wyman's Brook*, and *Hatherley Brook*, and any other Brook, Rivulet, or Stream within the Borough or bounding the same; and the Commissioners may from Time to Time enter into and upon any Premises, in the Daytime, to do all necessary Acts for any of the Purposes aforesaid, so that the same be executed with all convenient Dispatch, and without injuring or endangering the Foundation or Wall of any Building now erected or to be hereafter lawfully erected adjoining or upon such Brook, Rivulet, or Stream; and the Commissioners may from Time to Time lay any Scourings or Refuse collected by them from the said Brooks, Rivulets, or Streams in or upon any adjoining Premises, for the Purpose of temporary Deposit, until the same can be conveniently removed.

Penalty on
throwing Rub-
bish, &c. into
Sewers or Brooks.

XXXIX. That if any Person shall lay or throw into any Sewer of the Commissioners any Cinders, Ashes, Bricks, Stone, Earth, or hard Rubbish, or shall lay or throw into any of the said Brooks any Ashes, Rubbish, Dust, Filth, or Annoyance whatsoever, he shall forfeit to the Commissioners a Sum not exceeding Forty Shillings for every such Offence.

Power to Com-
missioners to
give notice to
Proprietor, &c.
to repair private
Sewers.

XL. That in case any private Sewer (meaning thereby any of the Sewers saved from vesting in the Commissioners, other than the Sewers of the *Cheltenham Sewers Company*,) requires to be cleansed, reconstructed, or repaired, the Commissioners shall cause a written Notice requiring the Proprietor of such Sewer (by Name or Description) to do the Works required within a Time to be fixed, and containing an Estimate of the Expense of executing such Works, to be advertised twice consecutively in some Newspaper published and circulated in the Borough; and in case the Proprietor of such Sewer shall refuse or neglect to comply with such Notice, the Commissioners shall execute the required Works, and if the Expenses incurred by them in so doing be not forthwith repaid by the Proprietor of such Sewer, they shall be declared Private Improvement Expenses, to be defrayed by a Rate to be levied on the Owners and Occupiers of the Premises in the Street or Part of the Borough which the Commissioners deem benefited by the Works executed; and in case such Owners or Occupiers be liable to the Payment to the Proprietor of such Sewer of any Rentcharges for the Repair or Use and Repair of Sewers, they shall be entitled to deduct therefrom the Contribution following; that is to say, if such Rentcharges were reserved separately

And to Repair on
Proprietor
neglecting.

Expenses of.

Deduction from
sewer rents.

for the Repair or Use and Repair of Sewers, then the whole of such Rentcharges respectively may be deducted; if such Rentcharges were reserved for such Purpose jointly with some other Purpose, such as the Repair of private Roads, then One Half Part of such Rentcharges respectively may be deducted; and if such Rentcharges were reserved for such Purpose jointly with several other Purposes, such as the Repair of Roads and the Maintainance of Pleasure Grounds, then One Tenth Part of such Rentcharges respectively may be deducted, until such Owners or Occupiers be thereby repaid the Rate levied upon them for such Works as aforesaid: Provided always, that were any Ground Rent or Rentcharge originally reserved and made payable for the Repair or Use and Repair of a Sewer has been alienated, with the Consent of the Party liable to the Payment thereof, free and discharged from all Rights, Claims, and Demands for or in respect of such Repairs, the same shall not thereafter be subject to Deduction for any of the Purposes herein mentioned, anything to the contrary notwithstanding.

Except when alienated.

And with respect to the Drainage of Houses, be it enacted, House Drains.

XLI. That the following Sections of "The Public Health Act, 1848," shall be incorporated with this Act: .

Sections 49 and 51 to 54 of 11 and 12 Vict. c. 63. incorporated with this Act.

The Section numbered 49 of the said Act :

XLIX. And be it enacted, That it shall not be lawful newly to erect any House, or to rebuild any House which may have been pulled down to or below the Floor commonly called the Ground Floor, or to occupy any House so newly-erected or rebuilt, unless and until a covered Drain or Drains be constructed, of such Size and Materials, and at such Level, and with such Fall as upon the Report of the Surveyor shall appear to be necessary and sufficient for the proper and effectual Drainage of the same and its Appurtenances; and if the Sea, or a Sewer of the Local Board of Health, or a Sewer which they are entitled to use, be within One hundred Feet of any Part of the Site of the House to be built or rebuilt, the Drain or Drains so to be constructed shall lead from and communicate with such One of those Means of Drainage as the said Local Board shall direct, or if no such Means of Drainage be within that Distance, then the last-mentioned Drain or Drains shall communicate with and be emptied into such covered Cesspool or other Place, not being under any House, and not being within such Distance from any House, as the said Local Board shall direct; and whosoever erects or rebuilds any House

No new House to be built without Drains, &c.

Penalty.

(Section 41)

Commissioners may, upon Report of Surveyor that any House is without a Drain, order One to be constructed, &c.

In default construct it.

At owner's Expense.

Provide for drainings into excepted sewers.

Penalty on Persons erecting Houses without Waterclosets, &c. Commissioners may, upon Report of Surveyor, order Waterclo-

or constructs any Drain contrary to this Enactment shall be liable for every such Offence to a Penalty not exceeding Fifty Pounds, which may be recovered by any Person, with full Costs of Suit, by Action of Debt; and if at any Time, upon the Report of the Surveyor, it appear to the said Local Board that any House, whether built before or after the Time when this Act is applied to the District in which it is situate, is without any Drain, or without such a Drain or Drains communicating with the Sea or a Sewer as is or are sufficient for the proper and effectual Drainage of the same and its Appurtenances, and if the Sea, or a Sewer of the said Local Board, or a Sewer which they are entitled to use, be within One hundred Feet of any Part of such House, they shall cause Notice in Writing to be given to the Owner or Occupier of such House, requiring him forthwith, or within such reasonable Time as shall be specified therein, to construct and lay down, in connexion with such House and One of those Means of Drainage, One or more covered Drain or Drains, of such Materials and Size, at such Level, and with such Fall as upon the last-mentioned Report shall appear to be necessary; and if such Notice be not complied with the said Local Board may, if they shall think fit, do the Works mentioned or referred to therein, and the Expenses incurred by them in so doing shall be recoverable by them from the Owner in a summary Manner, or, by Order of the said Local Board, shall be declared to be Private Improvement Expenses, and be recoverable as such in manner herein-after provided.

Provided nevertheless, that no Person about to erect or rebuild any House who shall effectually drain such House into any of the Sewers excepted in Section 43 (a.) of "The Public Health Act, 1848," to the Satisfaction of the Commissioners Surveyor, shall be compelled to drain into any of their Sewers or any Sewer which they are entitled to use: Provided also, that if the Owner or Occupier of any House, whether built before or after the passing of this Act, which is without proper and effectual Drainage, shall effectually drain the same into any of the Sewers herein-before excepted, to the Satisfaction of the Commissioners Surveyor, he shall not be compelled to drain into any of their Sewers or any Sewer which they are entitled to use:

Also the Section numbered 51 of the said Act:

LI. And be it enacted, That it shall not be lawful newly to erect any House, or to re-build any House pulled down to or below the Floor commonly called the Ground Floor, without a sufficient

(a.) Incorporated with this Act by section 32 ante, page 46.

Water-closet or Privy and an Ashpit, furnished with proper Doors and Coverings ; and whosoever offends against this Enactment shall be liable to a Penalty not exceeding Twenty Pounds ; and if at any Time, upon the Report of the Surveyor, it appear to the Local Board of Health that any House, whether built before or after the Time when this Act is applied to the District in which it is situate, is without a sufficient Watercloset or Privy and an Ashpit, furnished with proper Doors and Coverings, the said Local Board shall give Notice in Writing to the Owner or Occupier of such House, requiring him forthwith, or within such reasonable Time as shall be specified therein, to provide a sufficient Watercloset or Privy and an Ashpit so furnished as aforesaid, or either of them, as the Case may require ; and if such Notice be not complied with, the said Local Board may, if they shall think fit, cause to be constructed a sufficient Watercloset or Privy and an Ashpit, or either of them, or do such other Works as the Case may require ; and the Expenses incurred by them in so doing shall be recoverable by them from the Owner in a summary Manner, or by Order of the said Local Board shall be declared to be Private Improvement Expenses, and be recoverable as such in manner hereinafter provided : Provided always, that where a Watercloset or Privy has been and is used in common by the Inmates of Two or more Houses, or if, in the Opinion of the said Local Board, a Watercloset or Privy may be so used, they need not require the same to be provided for each House.

(Section 41.)
sets, &c. to be
erected in Houses
whether built
before or after
this Act is
applied, &c.

Commissioners
may construct
them in default
at owner's
expense.

Use of Water-
closets by inmates
of two or more
Houses.

Also the Section numbered 52, of the said Act :

LII. And be it enacted, That if at any Time it appear to the Local Board of Health, upon the Report of the Surveyor, that any House is used or intended to be used as a Factory or Building in which Persons of both Sexes, and above Twenty in Number, are employed or intended to be employed at One Time in any Manufacture, Trade, or Business, the said Local Board may, if they shall think fit, by Notice in Writing to the Owner or Occupier of such House, require them or either of them, within a Time to be specified in such Notice, to construct a sufficient Number of Water-closets or Privies for the separate Use of each Sex ; and whosoever neglects or refuses to comply with any such Notice shall be liable for each Default to a Penalty not exceeding Twenty Pounds, and a further Penalty not exceeding Forty Shillings for every Day during which the Default is continued.

Certain Water-
closets to be
constructed in
Factories, &c.

Penalty.

Also the Section numbered 53 of the said Act :

LIII. And be it enacted, That, Fourteen Days at the least before beginning to dig or lay out the Foundations of or for any new House, or to rebuild any House pulled down to the Extent aforesaid, the

Notice of building and rebuilding, with respect to Levels of

(Section 41.)
Houses, Situation
of Privies, &c.

Penalty for
building, &c.
without notice
or approval.

And building, &c.
may be pulled
down, &c.

Approval or
disapproval.

Person intending so to build or rebuild shall give to the Local Board of Health written Notice thereof, together with the Level or intended Level of the Cellars or lowest Floor, and the Situation and Construction of the Privies and Cesspools to be built, constructed, or used in connexion with such House ; and it shall not be lawful to begin to build or rebuild any such House, or to build or construct any such Privy or Cesspool, until the Particulars so required to be stated have been approved by the said Local Board ; and in default of such Notice, of if any such House, Privy, or Cesspool be built, rebuilt, or constructed as aforesaid without such Approval, or in any respect contrary to the Provisions of this Act, the Offender shall be liable to a Penalty not exceeding Fifty Pounds ; and the said Local Board may, if they shall think fit, cause such House, Privy, or Cesspool to be altered, pulled down, or otherwise dealt with as the Case may require, and the Expenses incurred by them in so doing shall be repaid by the Offender, and be recoverable from him in the summary Manner herein-after provided : Provided always, that if the said Local Board fail to signify their Approval or Disapproval of the said Particulars for the Space of Fourteen Days after receiving such Notice, it shall be lawful to proceed according to such Notice, if the same be otherwise in accordance with the Provisions of this Act.

Also the Section numbered 54 of the said Act.

Commissioners
to provide that
Drains, Water-
closets, &c. do
not become a
Nuisance.

Surveyor may be
authorised to
enter premises to
inspect drains,
&c.

If drains, &c.
found in proper
order, damage to
be made good.

If not, Commis-
sioners to require

LIV. And be it enacted, That the Local Board of Health shall see and provide that all Drains whatsoever, and the Waterclosets, Privies, Cesspools, and Ashpits within their District, are constructed and kept so as not to be a Nuisance or injurious to Health ; and the Surveyor may, by written Authority of the said Local Board (who are hereby empowered to grant such Authority, upon the written Application of any Person showing that the Drain, Watercloset, Privy, Cesspool, or Ashpit in respect of which Application is made is a Nuisance or injurious to Health, but not otherwise,) and after Twenty-four Hours Notice in Writing, or in case of Emergency without Notice, to the Occupier of the Premises to which such Drain, Watercloset, Privy, Cesspool, or Ashpit is attached or belongs, enter such Premises, with or without Assistants, and cause the Ground to be opened, and examine and lay open such Drain, Watercloset, Privy, Cesspool, or Ashpit ; and if the Drain, Watercloset, Privy, Cesspool, or Ashpit in respect of which such Examination is made be found to be in proper Order and Condition, he shall cause the Ground to be closed, and any Damage done to be made good as soon as can be, and the Expenses of the Works shall be defrayed by the said Local Board ; but if upon such Examination such Drain, Watercloset, Privy,

Cesspool, or Ashpit appear to be in bad Order and Condition, or to require Alteration or Amendment, he shall cause the Ground to be closed, and the said Local Board shall cause Notice in Writing to be given to the Owner or Occupier of the Premises upon or in respect of which the Examination was made, requiring him forthwith, or within such reasonable Time as shall be specified in such Notice, to do the necessary Works; and if such Notice be not complied with the Person to whom it is given shall be liable to a Penalty not exceeding Ten Shillings for every Day during which he continues to make default, and the said Local Board may, if they shall think fit, execute such Works, and the Expenses incurred by them in so doing shall be recoverable by them from the Owner in a summary Manner, or by Order of the said Local Board shall be declared to be Private Improvement Expenses, and be recoverable as such in the Manner herein-after provided.

(Sections 41. 42. 43.)
execution of necessary works.

Penalty on default.

And Commissioners may execute the works at Owners' expense, &c.

XLII. That the Section numbered 46 of "The Towns Improvement Clauses Act, 1847," shall be incorporated with this Act; and the Words "such Drain, Privy, or Cesspool," and "such Sewer," therein used, shall apply to Drains, Privies, and Cesspools within the Limits of this Act.

Section 46 of 10 & 11 Vict. c. 34 incorporated with this Act.

XLVI. If any such Drain, Privy, or Cesspool be on Inspection found to have been constructed, after the passing of the special Act, contrary to the Directions and Regulations of the Commissioners, or contrary to the Provisions of this or the special Act, or if any Person, without the Consent of the Commissioners, construct, rebuild, or unstop any Drain, Privy, or Cesspool which has been ordered by them to be demolished or stopped up or not to be made, every Person so doing shall be liable to a Penalty not exceeding Five Pounds; and the Commissioners may cause such Amendment or Alteration to be made in any such Drain, Privy, or Cesspool as they think fit; and the Expence attending any such Amendment or Alteration shall be paid by the Person by whom such Sewer was improperly constructed, rebuilt, or altered, and shall be recoverable from him as Damages. (a)

Penalty on Persons making or altering Drains, &c. contrary to the Orders of the Commissioners.

Alteration thereof by Commissioners.

Expenses.

And with respect to paving, laying out, and maintaining Streets, be it enacted,

Street paving and Works.

XLIII. That the following Sections of "The Public Health Act, 1848," shall be incorporated with this Act:

Sections 68 and 72 of 11 and 12 Vict. c. 63. in or-

(a) See note to section 129 of the Public Health Act, post, section 127 as to the recovery of these damages.

(Section 43)
incorporated with this
Act.

Trees, &c. vested
in Commissioners

Damaging, &c.
trees, &c.

The Section numbered 68 of the said Act; and the said Provision shall extend to vest Trees (a.) or Shrubs planted or growing in any Carriageway, Bridleway, or Footpath under the Management of the Commissioners, in the Commissioners, and to prohibit any Person from maliciously cutting down, pulling up, destroying, or damaging any such Tree or Shrub, under the Penalty for every Offence of a Sum not exceeding Five Pounds :

Management of
Streets vested in
Commissioners.

Commissioners
to repair, &c.

Penalties for
injuries, &c. to
Pavements, &c.

LXVIII. And be it enacted, That all present and future Streets, (b) being or which at any Time become Highways within any District, and the Pavements, Stones, and other Materials thereof, and all Buildings, Implements, and other Things provided for the Purposes thereof by any Surveyor of Highways, or by any Person serving the Office of Surveyor of Highways, shall vest in and be under the Management and Control of the said Local Board of Health ; and the said Local Board shall from Time to Time cause all such Streets to be levelled, paved, flagged, channelled, altered, and repaired, as and when Occasion may require, and they may from Time to Time cause the Soil of any such Street to be raised, lowered, or altered as they may think fit, and place and keep in repair Fences and Posts for the Safety of Foot Passengers ; and whosoever wilfully displaces, takes up, or injures the Pavement, Stones, Materials, Fences, or Posts of any such Street, without the Consent of the said Local Board, shall be liable for every such Offence to a Penalty not exceeding Five Pounds, and a further Sum not exceeding Five Shillings for every Square Foot of the Pavement, Stones, or other Materials so displaced, taken up, or injured.

Also the Section numbered 72 of the said Act.

Notice to be
given to Commis-
sioners before
laying out new
Streets, who
shall fix the
Levels and
Widths thereof,
subject to
General Board.

LXXII. And be it enacted, That One Month at the least before any Street is newly laid out as aforesaid written Notice shall be given to the Local Board of Health, showing the intended Level and Width thereof ; and the Level and Width of every such Street shall be fixed by the said Local Board, and it shall not be lawful to lay out, make, or build upon any such Street, otherwise than in accordance with the Level and Width so fixed, unless, upon Disapproval by the said Local Board of the Level or Width specified in such Notice, the General Board of Health shall otherwise direct ; and whosoever shall lay out, make, or build upon any such Street, otherwise than in accordance with the Level and Width fixed by the said Local Board, or approved by the said

(a.) See the provision as to ornamental trees, &c. and trees in certain places, post, section 45. p. 61

(b.) The word "street" includes a "turnpike road" see p. 4.

General Board, shall be liable for every such Offence to a Penalty ^(Sections 43. 44. 45.) not exceeding Twenty Pounds for every Day during which he shall permit or suffer such Street to continue to be so improperly laid out, made, or built upon; and the said Local Board may, if they shall think fit, cause any such Street laid out or made at a Level or Width otherwise than in accordance with the Level and Width so fixed or approved as aforesaid, or any Building built in any such Street otherwise than in accordance with such Level and Width, to be altered in such Manner as the Case may require, and the Expenses incurred by them in so doing shall be repaid to them by the Offender, and be recoverable from him in a summary Manner: Provided always, that if no such Level or Width be fixed, and no Approval or Disapproval of the Level or Width proposed be signified by the said Local Board within One Month from the last-mentioned Notice, the intended Street may be laid out and made upon the Level and of the Width specified in such Notice, if the same be otherwise in accordance with the other Provisions of this Act.

Penalty for laying out, &c. contrary to Commissioners' orders. Commissioners may alter at offender's expense.

Time for Commissioners to approve or disapprove.

XLIV. That in case any present or future Street now being or which at any Time shall become a Highway be not well and properly drained, levelled, repaired, flagged, and channelled, to the Satisfaction of the Commissioners, they may, by Notice in Writing to the respective Owners or Occupiers of the Premises fronting, adjoining, or abutting upon such Parts thereof as may require to be drained, levelled, repaired, flagged, or channelled, require them to drain, level, repair, flag, or channel the same within a Time to be specified in such Notice; and if such Notice be not complied with, the Commissioners may, if they should think fit, execute the Works mentioned or referred to therein, and the Expenses incurred by them in so doing shall be paid by the Owners in default, according to the Frontage of their respective Premises, and in such Proportion as shall be settled by the Surveyor, or, in case of Dispute, as shall be settled by Arbitration, having regard to the Circumstances of the Case, in the Manner provided by this Act; and such Expenses may be recovered from the last-mentioned Owners in a summary Manner, or the same may be directed by Order of the Commissioners to be Private Improvement Expenses, and be recoverable accordingly: The Word "Street" in this Section shall be confined to Streets, Rows, Terraces, Squares, Parades, and such like Places bounded with Houses on One or both of the Sides thereof.

Power to Commissioners to require repairing, draining, paving, &c. of Highways imperfectly paved.

In default of Owners repairing, &c. Commissioners may, at owner's expense.

Meaning of Word "Street" in this Section.

XLV. That the Commissioners, or any Surveyor or Officer appointed by them, shall not at any Time have Power to lop, fell,

Commissioners not to interfere

(Secs. 45.46)
with Trees, &c.
in certain
situations.

Nor entrances,
&c. to certain
private estates or
ornamental
trees, &c. ex-
cept when
obstructing
highway.

Section 69 of 11
and 12 Vict. c.
63. incorporated
with this Act.

If any Street
within the
Meaning of the
said Section be
not sewered or
kept in repair,
Commissioners
may compel
Parties liable to
sewer or repair
the same.

If owners of
premises repair
or sewer in de-
fault of pro-
prietor, they may
deduct expenses
from Rent-
charges.

cut, take down, alter, or remove, or otherwise interfere with any Tree or Shrub, or any Hedge, Fence, or Gate, adjoining to or by the Side of any Carriage Road, Footpath, Plantation, or Garden in any of the following Places, namely, the *Promenade, Imperial Square, Vittoria Walk*, and the *Montpellier, Lansdown, Christchurch, Pitville, Bays Hill*, and *Lypiatt's Estates*, or in *Charlton Park*, nor to remove or alter any Pier, Gate, or other Erection or Building at the respective Entrances thereto, nor to fell, cut, take down, or remove any ornamental Tree or Shrub by the Side of any Street within the Borough, unless such Tree or Shrub in either of the said Cases shall be, or such Hedge, Fence, or Gate shall be, an Obstruction to Passengers or Carriages passing along a Highway, nor until the Owner thereof, or his Agent, have received Notice in Writing from the Commissioners to remove such Obstruction within a Time to be fixed, not exceeding Ten Days, and have made Default in compliance with such Notice.

XLVI. That the Section numbered 69 of "The Public Health Act, 1848," shall be incorporated with this Act; and in case any private Street (meaning thereby any Street within the Meaning of the said Section 69 of the Public Health Act), and being a Street for the Repair or Use and Repair of which any Rentcharges are reserved or made payable by the Owners or Occupiers of Premises fronting, adjoining to, or abutting on such Street, be not sewered, flagged, levelled, channelled, paved, or repaired to the Satisfaction of the Commissioners, the Commissioners shall cause a written Notice, specifying the Works required, and containing an Estimate of the Expense of executing the same, and requiring the Proprietor (by Name or Description) of such Street to execute the same within a Time prescribed, and providing that in case such Proprietor refuse or neglect to execute such Works, then the Owners of such Premises shall do the same within a further Time to be allowed for that Purpose, to be put up for Seven consecutive Days at both Ends of the Street, and advertised Twice consecutively in some Newspaper published and circulated in the Borough, as well as to be given to the Owners or Occupiers of such Premises, according to the said Section of the Public Health Act; and if, from the Default of the Proprietor of such Street to do such Works, the Owners of such Premises shall themselves sewer, flag, level, pave, channel, or repair such Street as required by such Notice, it shall be lawful for them to deduct from the Rentcharges payable by them the Contribution following; that is to say, if such Rentcharges

(Section 46.)

were reserved for the Repair or Use and Repair of Streets, then the whole of such Rentcharges may be deducted annually, until the Expenses of such Owners in executing such Works be repaid ; if such Rentcharges were reserved for such Purpose jointly with some One other Purpose, such as the Repair of private Sewers, then One Half of such Rentcharges may be deducted annually, until such Expenses be repaid ; and if such Rentcharges were reserved for such Purpose jointly with several other Purposes, such as the Repair of Sewers and Maintenance of Pleasure Grounds, then One Fifth of such Rentcharges may be deducted for the Space of Three Years ; and in the last-mentioned Case the Residue, if any, of such Expenses not repaid by such Deduction shall be borne by the Owners of such Premises, under the Provisions of the said Act ; and the Certificate of the Commissioners Surveyor shall be satisfactory Proof of the Amount of such Expenses ; and if the Commissioners execute the Works or any of them, and the Expenses be recovered from such Owners summarily, or by way of Improvement Expenses under the said Public Health Act, then such Owners may similarly deduct the Contributions aforesaid from the Rentcharges payable by them as aforesaid : Provided always, that under the said Section 69 of the Public Health Act no Proprietor of a Street, nor any Owners or Occupiers of Houses therein, shall be required to execute Works of Flagging, Footpaving, or Channelling on any Footway in front of or abutting on the Area of any Square or other like detached Lawn or Pleasure Ground appropriated to the common Enjoyment of the Owners or Occupiers of divers Dwelling Houses, and not being Part or Parcel of the Land or Premises attached or belonging to such Dwelling House : Provided also, that where the Proprietor of a Street is not liable to make or keep in repair the Flagging, Footpaving, or Channelling thereof, no Deduction from the Rentcharges payable by Owners of Premises therein to him shall be made for Works of that Description ; and in case of Doubt as to what Portion of the Expenses of putting the Street in good Condition belongs to such Works, the Amount thereof shall be settled and ascertained by the Commissioners Surveyor : Provided also, that where any Rentcharge originally reserved and made payable for the Repair or Use and Repair of any Street has been alienated, with the Consent of the Party liable to the Payment thereof, free from any Demands for such Repairs, the same shall not thereafter be subject to Deduction in manner or for any of the Purposes herein-before mentioned.

If Commissioners repair, &c. owners may similarly deduct expenses from Rentcharges.

Exception as to flagging, &c. certain footways.

If proprietor of street not liable to repair, Rentcharges not to be deducted.

Surveyor to settle doubts as to expenses.

Certain alienated rentcharges not to be deducted.

(Secs. 46. 47)
Power to require
paving, &c. of
private Streets by
owners and
occupiers.

On default
Commissioners
may execute
work, &c. at the
expense of
owners of Pre-
mises.

LXIX. And be it enacted, That in case any present or future Street, or any Part thereof, (not being a Highway,) be not sewered, levelled, paved, flagged, and channelled to the Satisfaction of the Local Board of Health, such Board may, by Notice in Writing to the respective Owners or Occupiers of the Premises fronting, adjoining, or abutting upon such Parts thereof as may require to be sewered, levelled, paved, flagged, or channelled, require them to sewer, level, pave, flag, or channel the same within a Time to be specified in such Notice; and if such Notice be not complied with the said Local Board may, if they shall think fit, execute the Works mentioned or referred to therein; and the Expenses incurred by them in so doing shall be paid by the Owners in default, according to the Frontage of their respective Premises, and in such Proportion as shall be settled by the Surveyor, or in case of Dispute as shall be settled by Arbitration (having regard to all the Circumstances of the Case) in the Manner provided by this Act; and such Expenses may be recovered from the last-mentioned Owners in a summary Manner, or the same may be declared by Order of the said Local Board to be Private Improvement Expenses, and be recoverable as such in the Manner herein-after provided.

Section 70 of 11
and 12 Vict. c.
68 incorporated
with this Act.

XLVII. That the Section numbered 70 of "The Public Health Act, 1848," shall be incorporated herewith:

Certain Streets
not Highways to
be deemed such,
and repaired by
Commissioners.

LXX. And be it enacted, That if any present or future Street, not being a Highway at the Time when this Act is applied to the District in which it is situate, be sewered, levelled, paved, flagged, and channelled to the Satisfaction of the Local Board of Health, the said Local Board may, if they shall think fit, by Notice in Writing put up in any Part of the Street, declare the same to be a Highway, and thereupon the same shall become a Highway, and be from Time to Time repaired by them out of the Rates levied in that Behalf under the Authority of this Act; and every such Notice shall be entered amongst the Proceedings of the said Local Board: Provided always, that no Street shall become a Highway as last aforesaid if within One Month after Notice in Writing shall have been put up as last aforesaid the Proprietor of such Street, or the Person representing or entitled to represent such Proprietor, shall by Notice in Writing to the said Local Board object thereto.

Proprietor may
object.

As to Notices to
be given of pri-
vate Streets be-
ing made High-
ways.

Provided always, that the Notice by the Commissioners there-
in mentioned shall be put up for Seven consecutive Days at both
Ends of the Street, and shall also be advertised Twice consecu-

(Section 47.)

tively in some Newspaper published and circulated in the Borough; and in the Proviso to such Section the Words "Two Months" shall be substituted for the Words "One Month," and the Words "and given by Advertisement as aforesaid" shall be read as Part of the same Section after the Words "put up as last aforesaid:" Provided also, that no Street shall become a Highway, under the Provisions of the said Public Health Act, if within Two Months after Notice shall be put up by the Commissioners the Proprietor of such Street, or Two Thirds of the Owners of Premises fronting, adjoining, or abutting upon such Street (or the known Agents of such Owners), in Value on the Borough Rate, if any, or otherwise the Poor Rate, shall by Notice in Writing to the Commissioners object thereto: Provided also, that when any Street becomes a Highway the Proportion following of the Rentcharges or Sums of Money, if any, reserved and made payable for its Repair, or for its Use and Repair, shall, except as to Arrears, cease to be payable; that is to say, if such Rentcharge were reserved separately for the Repair or Use and Repair of Streets, then Two Thirds of such Rentcharge shall cease; if such Rentcharge were reserved jointly for the Repair or Use and Repair of Streets and some One other Purpose, then Half of such Rent charge shall cease; and if such Rentcharge were reserved jointly for the said Purpose and several other Purposes, then One Fifth of such Rentcharge shall cease; but the Remainder of such Rentcharge shall, subject to any Lien thereon under these Provisions, continue payable, and the Person to whom it is payable shall thereafter have and retain the Remedies for its Recovery which he would have for the whole of such Rentcharge if this Act had not been passed: Provided also, that where any Rentcharge hath been reserved or made payable for the Repair or Use and Repair of the Street declared public as aforesaid in common with any other Street not declared public, a Division of such Rentcharge shall be made by the Commissioners Surveyor according to the relative Measurement of the Street so declared public and the Street or Streets remaining private, and out of the Part of such Rentcharge assigned by the Surveyor to the Street so declared public, such proportional Deduction of Two Thirds, One Half, or One Fifth respectively (as the Case may be) shall be made as aforesaid; and in case of subsequent Dedication of Part only of the Street or Streets which so remained private, a Subdivision of the Part of the Rentcharge so assigned thereto shall be made between the Part newly dedicated and the Part still remaining

Owners of Houses in or Proprietors of a Private Street may object to its becoming a Highway.

Rule as to apportioning Road Rent when the Street becomes public.

Rule for Division of Road Rents where some of the Roads remain private.

And for subsequent Subdivision.

(Secs. 47, 48)
 Alienated Road
 Rents not subject
 to deduction.

private, in like Manner, and so *toties quoties* : Provided also, that where any Rentcharge originally reserved and made payable for the Repair or Use and Repair of any Street has been alienated, with the Consent of the Party liable to the Payment thereof, free from any Demands for such Repairs, the same shall not thereafter be subject to Deduction in manner or for any of the Purposes herein-before mentioned.

Certain Private
 Streets declared
 public.

XLVIII. And whereas it would be of great public Advantage that the private Streets specified in the Schedule (F.) hereto annexed should be immediately dedicated to public Use, and the said Streets are well and sufficiently drained, levelled, paved, and channelled: Be it therefore enacted, That after the passing of this Act all the said Streets shall become and be Highways, and be repaired as such by the Commissioners: Provided always, that; notwithstanding such Dedication, the full Amount of the Rentcharges reserved or payable from or in respect of any Houses or Land, wherever situate, solely for the Use and Repair or for the Use or towards the Repair of the said Streets or any of them, and due or payable on or before the First Day of *January* One thousand eight hundred and fifty-three, shall be paid to the Persons entitled thereto, and afterwards Two Thirds of such Rentcharges, except as to past Arrears, shall cease to be payable, but the remaining One Third of such Rentcharges shall continue payable, free from and clear of all Deductions and Liabilities whatsoever, for or towards the Repairs of such Streets; and the Persons entitled to receive the same, or to whom the same are payable, shall have and retain all and every the Remedies for the Recovery of such One Third Part of the said Rentcharges which they would have had for the Recovery of the whole thereof if this Act had not been passed; and that where certain Sums of Money have been used to be paid by Owners or Occupiers of Premises, in lieu of their contributing towards or bearing or paying a Share or Proportion of the Expense of keeping the said Streets or any of them in repair, which they were liable to under any Deed, Surrender, or other legal Obligation, the same Payments shall be deemed Rentcharges within the Meaning of this Provision: Provided, nevertheless, that any Rentcharge specifically reserved for the Use only of the said Streets or any of them, and in the Reservation or Grant whereof it shall have been provided that the same is to be paid irrespective of the Repairs of the said Streets, or to be paid whether the said Streets shall be in repair or not, then such Rentcharge shall continue payable unaffected by the Provision

Rule as to cesser
 of portions of
 Rentcharges.

Reservation of
 certain Rent-
 charges.

as to the Cesser of Two Thirds of Rentcharges herein contained. (Secs. 49.50)

XLIX. That, notwithstanding any Street is hereby declared to be or shall at any Time under this Act become a Highway, the Right of any Person to Mineral or other Wells, or to Pipes for the Conveyance of Water, or to Sewers, excepted out of the Forty-third Section (a.) of "The Public Health Act, 1848," running under such Street, shall continue to exist, and with Liberty to renew or repair the same Wells, Pipes, or Sewers, and to make Communications therewith, as fully as if such Street had not become a Highway, the Person so renewing, repairing, or making Communications as aforesaid forthwith repairing the Street to the Satisfaction of the Commissioners Surveyor; nevertheless the Commissioners may at all Times cause the Surface Water from the Highways to be drained into the said Sewers, they making good any Damage occasioned in making or repairing the Communications for this Purpose; and that all Covenants entered into by any Person or Persons for the Maintenance or Repair of any Street which is hereby declared to be or shall become a Highway as aforesaid shall, after such Dedication, except as to past Breaches of such Covenants, cease.

Pipeway and other Rights reserved in Streets becoming Highways.

Drainage of surface water into reserved sewers.

Cesser of covenants to repair Streets becoming Highways.

L. That all Works, Acts, and Operations in the Streets or Ways in the Borough which under the Act passed in the Fifty-ninth Year of King George the Third, intituled *An Act for lighting with Gas the Town and Parish of Cheltenham and Precincts thereof in the County of Gloucester*, or under an Act passed in the Fifth Year of King George the Fourth, intituled *An Act for better supplying the Town and Neighbourhood of Cheltenham in the County of Gloucester with Water*, or under any Act extending the Powers of the last-mentioned Act, or under an Act passed in the Third Year of King William the Fourth, intituled *An Act for the better Sewage, cleansing, and draining of the Town of Cheltenham in the County of Gloucester*, are required to be done under the Direction, Inspection, or Superintendence or to the Satisfaction or with the Consent or Approval of the Commissioners acting under the Act hereby repealed, or their Surveyor, or of the Trustees of any Turnpike Roads, or of the Surveyor of such Roads or of the Highways, or of the Parish Officers, or other Persons, not being Owners or Occupiers of Lands, shall be done, after the passing of this Act, (so far as they lawfully may be done,) under the Direction, Inspection, or Superintendence and to the Satisfaction or

All Works connected with Gas, Water, and Sewage under 59 G. 3. c. 17., 5 G. 4. c. 132., 2 and 3 Vict. c. 25., &c. and 3 and 4 W. 4. c. 21. are to be done under the Superintendence of Commissioners under this Act.

(a.) Incorporated by Sec. 32, ante page, 46.

(Sections 51.
52. 53.) with the Consent or Approval of the Commissioners acting in execution of this Act.

Saving Rights of
Cheltenham Gas
Company under
59 G. 3. c. 17.

LI. That nothing in this Act contained shall alter or affect the Powers or Provisions of the Act passed in the Fifty-ninth Year of the Reign of His late Majesty King *George the Third*, intituled *An Act for lighting with Gas the Town and Parish of Cheltenham and Precincts thereof in the County of Gloucester*, but that the Powers thereby vested in the *Cheltenham Gaslight and Coke Company* shall and may be available and executed, and be carried into execution and effect, with respect to this Act, as the same was or were or might have been with respect to the Act hereby repealed, or the Commissioners thereby appointed, or as if the Commissioners hereby appointed, or to be appointed by virtue of this Act, had been mentioned in the said Act of the Fifty-ninth Year of the Reign of King *George the Third*, and the said last-named Commissioners shall have such and the like Powers and Authorities with respect to the said *Cheltenham Gaslight and Coke Company* as the Commissioners appointed or who might have been appointed by or under the said repealed Act would have had in case the same Act had remained unrepealed: Provided always, that it shall be lawful for the *Cheltenham Gaslight and Coke Company* to carry their waste Refuse and Sewage, at the Expense of the Company, into the *Chelt Main Sewer* to be constructed under the Provisions of this Act; and when and so soon as such Sewer shall have been made and completed it shall not be lawful for the *Cheltenham Gaslight and Coke Company* to carry their waste Refuse and Sewage into any Cesspool, or into any River, Brook, or Stream within the said Borough.

Company may
sewer into Chelt
main sewer.

Not to drain into
Cesspool, or
Brooks, &c. after
mainsewer made

Surface
Cleansing.

And with respect to Surface Cleansing, be it enacted,

Section 55 of 11
and 12 Viet. c.
63. incorporated
with this Act.

LII. That so much of the Section numbered 55 of "The Public Health Act, 1848," as relates to Street Cleansing and the like, shall be incorporated with this Act.

Cleansing and
Watering of
Streets, Removal
of Dust, &c.

LV. And be it enacted, That the Local Board of Health shall from Time to Time and at all convenient Times provide that all Streets within their District, including the Foot Pavements thereof, are properly swept, cleansed, and watered, and that all Dust, Ashes, Rubbish, Filth, Dung, and Soil thereon are collected and removed; (a)

Sections 95, 96, &
97, of 10 & 11 Vic.
c. 34. incorporated
with this
Act.

LIII. That the following Sections of "The Towns Improvement Clauses Act, 1847," shall be incorporated with this Act:

(a) See the rest of this Sec: incorporated by Sec: 72 Post.

The Section numbered 95 of the said Act :

(Secs. 53.54)

XCV. The Commissioners shall appoint and employ a sufficient Number of Scavengers, or contract with any Company or other Person to employ Scavengers, for sweeping, cleansing, and watering the Streets, and for removing all Dust, Ashes, Rubbish, and Filth therefrom, and from the Houses and Tenements therein, and for emptying Privies and Cesspools, in the Manner by this or the special Act directed; and such Scavengers shall, on such Days and at such Hours, and in such Manner as the Commissioners from Time to Time appoint, sufficiently execute all such Works and Duties as they have respectively contracted or been employed to perform; and every such Contractor who fails to sweep and properly cleanse or water any Street which he has contracted to sweep, cleanse, or water, or who fails to clean out and empty any Privy, Cesspool, or Sewer which he has contracted to clean out and empty, at the Time and in the Manner appointed by the Commissioners, or to collect or remove any Dirt, Ashes, or Rubbish which he has contracted to remove at the Time and in the Manner prescribed by the Commissioners for that Purpose, or who lays any of such Soil, Dust, Ashes, Rubbish, or Filth in any other Place than such as are appointed by the Commissioners for that Purpose, shall for every such Offence be liable to a Penalty not exceeding Five Pounds.

Commissioners to appoint Scavengers or contract for cleansing, watering, &c. streets.

Scavengers duties.

Penalties on neglect, &c. by Contractors.

And the Section numbered 96 of the same Act :

XCVI. Every Occupier of any Building or Land within the said Limits, and every other Person, who refuses to permit the said Scavengers to remove such Dirt, Ashes, or Rubbish as by this or the special Act they are authorized to do, or who obstructs the said Scavengers in the Performance of their Duty, shall for every such Offence be liable to a Penalty not exceeding Five Pounds.

Penalty for obstructing Scavengers.

And the Section numbered 97 of the same Act.

XCVII. Every Person, other than the Person employed by the Commissioners, or by some Person contracting with the Commissioners for that Purpose, who collects or carries away any Night Soil, Dust, Ashes, Rubbish, or Filth by this or the special Act directed to be removed by Persons employed by the Commissioners, from any Street or public Place within the Limits of the special Act, shall be liable to a Penalty not exceeding Forty Shillings for every such Offence.

Penalty on Persons other than Scavengers removing Dirt.

And with respect to public Lighting, be it enacted,

Public Lighting.

LIV. That the Section numbered 8 of "The Public Health Supplemental Act, 1849," shall be incorporated with this Act.

Section 8 of 12 & 13 Vict. c. 94. incorporated with this Act.

(Secs. 54.55)
Commissioners
may contract for
lighting.

VIII. And whereas it is expedient that the Local Boards of Health for the Execution of the Public Health Act, 1848, should be invested with certain Powers not included in that Act: Be it therefore enacted, That the said Local Boards constituted under the said Public Health Act may contract for any Period not exceeding Three Years at any One Time with any Company or Person for the Supply of Gas or Oil, or other Means of lighting the Streets, Roads, and other open Places, Markets, and public Buildings within their respective Districts, and may provide such Lamps, Lamp Posts, and other Materials and Apparatus as such Local Boards respectively may think necessary for lighting the same; and the Expenses incurred by any such Local Board in so doing shall be defrayed out of the general or special District Rates (as the Nature of the Case may require) levied under the said Public Health Act.

And provide
Lamps, &c.

Expenses.

Power to affix
Lamp Posts and
Irons against
Buildings.

Power to erect
Gas-works, &c.

Not to carry
Pipes, &c. on
private premises
without consent.

Penalty for
damaging Lamps
&c.

Highways.

LV. That the Commissioners may direct Lamp Posts and Lamp Irons to be affixed and set up against or upon the Palisades of Houses, or against Walls, as well as in or upon the Streets, and may cause such Posts and Irons to be altered, taken down, and renewed from Time to Time; the Commissioners may cause the Lamps to be lighted with Gas, Oil, or otherwise, at and for such Hours and Seasons as to them seems fit; and for the Purpose of public Lighting, the Commissioners may of their own Authority make and manufacture Gas, and purchase Ground, and erect the necessary Buildings, Apparatus, and Machinery, and lay Pipes, Plugs, and Branches in the Streets, and do all other Things necessary thereto: Provided always, that nothing herein contained shall authorize the Commissioners to lay down or carry on any Pipe or Works through or against any Buildings, Yards, or enclosed Grounds or Lands not dedicated to the public Use, for the Purpose of lighting the Streets, without the Consent of the Owner and Occupier thereof, unless the same be in Renewal or Reparation of a Pipe already lawfully laid down and placed in such Premises; and if any Person should take away, destroy, or injure any Pillar, Lamp Post, Plug, Lamp, Pipe, or other Apparatus for lighting, belonging to the Commissioners, or any Part thereof, such Person shall pay to the Commissioners Compensation for the Damage occasioned by such Misfeasance, and, if the same were wilfully or maliciously done, a Penalty not exceeding Five Pounds in addition thereto.

And with respect to Highways and Turnpike Roads, be it enacted,

LVI. That the Section numbered 117 of the "Public Health Act, 1848," shall be incorporated with this Act.

(Section 56.)
Sect. 117 of 11 &
12 Vict. c. 63. in-
corporated with
this Act.

CXVII. And be it enacted, That the Local Board of Health within the Limits of their District shall, exclusively of any other Person whatsoever, execute the Office (*a.*) of and be Surveyor of Highways, and have all such Powers, Authorities, Duties, and Liabilities as any Surveyor of Highways in *England* is now or may hereafter be invested with or be liable to by virtue of his Office by the Laws in force for the Time being, except in so far as such Powers, Duties, or Authorities are or may be inconsistent with the Provisions of this Act; and the Inhabitants of any District shall not in respect of any Property situate therein be liable to the Payment of Highway Rate or other Payment, not being a Toll, in respect of making or repairing Roads or Highways within any Parish, Township, or Place, or Part of any Parish, Township, or Place, situate beyond the Limits of such District: Provided always, that the several Persons who at the Time when this Act is applied to any District are Surveyors of Highways within the same District may recover any Highway Rate made in respect of the said District, and then remaining unpaid, in the same Manner as if this Act had not been passed; and the Money so recovered shall be applied, in the first place, in reimbursing themselves any Expenses incurred by them as such Surveyors, and in discharging any Debts legally owing by them on account of the Highways within their Jurisdiction; and the Surplus (if any) shall be paid

Powers transferred, &c.

Commissioners to be Surveyors of Highways;

Borough not to be rated for Highways beyond limits.

Existing Surveyors to recover Rates in arrears; and apply same.

(*a.*) It has been considered, and by many taken for granted, that this section confers and imposes on the Commissioners the powers, and authorities, and duties, and liabilities conferred and imposed on Surveyors of Highways by the General Highway Act, 5 & 6 William 4. c. 50. and the amending and enlarging Acts; but the 112th section of the Highway Act enacts "That nothing in this Act contained shall be construed to abridge, repeal, alter, amend, or interfere with the powers and provisions contained in any Act relating to any parish or place for any of the purposes in this Act mentioned;" and the section 113 enacts, "That nothing in this Act contained shall apply to any Turnpike Roads, except where expressly mentioned, or to any Roads, Bridges, carriage ways, cart ways, horse ways, bridle ways, foot ways, cause ways, church ways, or pavements, which now are or may hereafter be paved, repaired, or cleansed, broken up, or diverted, under or by virtue of the provisions of any local or personal Act or Acts of Parliament." Now it is clear the Town of Cheltenham comes under the words of both these Sections, and therefore, no person acting as or doing the duties of the Surveyor of Highways in Cheltenham, or any part, could it should seem be invested with, or liable to any of the "powers, authorities, duties, or liabilities" conferred, or imposed by the General Highway Act. If such be so, (and it can hardly be contended that the words of this 117th sec. are strong enough to repeal the 112th and 113th Sections of the Highway Act) it seems to follow, that the Commissioners are also not invested with, or liable to any of such powers, authorities, duties, or liabilities. The application of this 117th Section no doubt was intended for Parishes, and Places with no local acts, or powers, and to which the Provisional order simply would apply. The above suggestion may not be law, but if not, so many Treatises on Highways exist, that it has been thought unnecessary to encumber this work with copies of the Highway Acts, &c. &c.

See Section 6 of the Nuisances Removal Act post appendix No. 3. made thereby part of the General Highway Act, and compelling Surveyors to cleanse ditches, &c. in connection with sec. 56 of the Public Health Act, post sec. 71, this is a duty imposed generally on all Surveyors acting under the Highway Act. See also section 7 of the Nuisances Act prohibiting certain drainage into open ditches, &c.

(Secs. 56.57)

Allowance of
Rates unnecessary.

by them to the Treasurer, and carried to the District Fund Account mentioned in this Act: Provided also, that neither the Allowance by Justices, nor the Signature by the Local Board of Health, shall be necessary in the Case of any Rate made by the Local Board of Health under this Act.

As to Collections
of Tolls and re-
pairing Roads,
&c. in the Bo-
rough of Chel-
tenham;

If roads repaired
by Commission-
ers tolls to cease.

As to Collection
of Tolls by Chel-
tenham & Glou-
cester Trust.

LVII. That the Trustees of any Turnpike Road (a.) shall not collect Tolls on any Road in the Borough, or lay out any Money thereon, save that the Trustees acting in execution of the Local Act of the First and Second Year of King *William* the Fourth, Chapter 16, relating to the *Cheltenham* District of Turnpike Roads, shall continue to repair all such Roads in the said Borough as are now repaired by them, and may collect Tolls at the several Toll Gates and Toll Bars and Weighing Machines at which Tolls are now received by such Trustees, and at any Toll Gate, Bar, or Chain to be at any Time hereafter set up by the said Trustees on, across, or on the Side of any Part of the Road made a Turnpike Road by virtue of the said Act, and leading from or near to the Top or Eastern End of the *High Street* in the Town and Parish of *Cheltenham* aforesaid to the Turnpike Road leading from *Cheltenham* towards *Birdlip*, not nearer to the Parish Church of *Cheltenham* than the present Turnpike Gate called the *Charlton Park Gate*: Provided, that in the event of any Part of the said Turnpike Roads within the Borough which are now repaired by the Trustees not being repaired by them, and being repaired by the Commissioners, then the Power to collect Tolls on such Part of the said Turnpike Roads shall cease; and save also, that the Trustees acting in execution of the *Cheltenham and Gloucester* Turnpike Road Act, 1851, may continue to collect Tolls at the several Toll Gates and Toll Bars in the Borough at which Tolls were before the Twentieth Day of *May* One thousand eight hundred and fifty-one lawfully collected by such Trustees, and at any Toll Gate, Bar, or Chain to be from Time to Time lawfully set up on or on the Side of any Part of the Roads in the said Trust not nearer to the Parish Church of *Cheltenham* than the present Turnpike Gate called the *Montpellier* or *Lansdowne Gate*, or the present Turnpike Gate, called the *Junction Gate*, thereto adjoining; but the said Trustees shall not continue or set up any Toll Gate, Bar, or Chain in, upon, or across any Lane or Way within the Borough leading into the same Roads,

(a) The interpretation clause includes a "Turnpike Road" in the word street. see p. 4 though the Public Health Act excluded it.

or on the Sides thereof, anything in the said Turnpike Act contained to the contrary notwithstanding. (*Secs. 58.59*)

LVIII. That the Commissioners may efficiently cleanse, light, water, and scavenge every present and future Street (*a.*) in the Borough (whether a Highway or not), but no Street shall thereby become a Highway.

Commissioners may cleanse, &c. Streets, whether Highways or not.

And with respect to Obstructions of the Passage in the Streets, be it enacted, Street Obstructions.

LIX. That the following Sections of the "Towns Police Clauses Act, 1847," shall be incorporated with this Act :

Sections 21 to 27 of 10 and 11 Vic. c. 89. incorporated with this Act.

The Section numbered 21 of the said Act :

XXI. The Commissioners may from Time to Time make Orders for the Route to be observed by all Carts, Carriages, Horses, and Persons, and for preventing Obstruction of the Streets within the Limits of the special Act, in all Times of public Processions, Rejoicings, or Illuminations, and in any Case when the Streets are thronged or liable to be obstructed, and may also give Directions to the Constables for keeping Order and preventing any Obstruction of the Streets in the Neighbourhood of Theatres and other Places of public Resort, and every wilful Breach of any such Order shall be deemed a separate Offence against this Act, and every Person committing any such Offence shall be liable to a Penalty not exceeding Forty Shillings.

Power to prevent Obstructions in the Streets during public Processions, &c.

Also the Section numbered 22 of the said Act :

XXII. On Application to the Commissioners by the Minister or Churchwardens or Chapelwardens of any Church, Chapel, or other Place of public Worship within the Limits of the special Act, the Commissioners may make Orders for regulating the Route by which Persons shall drive any Cart or Carriage, or Cattle, or the Manner in which they shall drive them, in the Neighbourhood of such Places of Worship, during the Hours of Divine Service on *Sunday, Christmas Day, Good Friday*, or any Day appointed for a public Fast or Thanksgiving, and any Orders so made shall be printed and put up on or near the Church, Chapel, or Place of public Worship to which the same refer, and in some conspicuous Places near and leading thereto, and elsewhere as the Commissioners direct, and every wilful Breach of any such Order shall be deemed a separate Offence against this Act, and every Person committing any such Offence shall be liable to a Penalty not exceeding Forty Shillings.

Power to regulate the Route of Persons driving Carts, Carriages &c. during Divine Service,

(a) The interpretation clause includes a "Turnpike Road" in the word street. see p. 4 though the Public Health Act excluded it.

(Section 59.)

Also the Section numbered 23 of the said Act :

Proprietors of
Stage Carriages
deviating from
Route by Order
free from
Penalty.

XXIII. No Proprietor of any Stage Carriage duly licensed to carry Passengers for Hire shall be liable to any Penalty for any Deviation from the Route or Line of Route specified in his Licence which the Driver of such Stage Carriage makes in consequence of any Regulation or Direction made or given by the Commissioners.

Also the Section numbered 24 of the said Act :

Power to im-
pound stray
Cattle.

XXIV. If any Cattle be at any Time found at large in any Street within the Limits of the special Act, without any Person having the Charge thereof, any Constable or Officer of Police, or any Person residing within the Limits of the special Act, may seize and impound such Cattle in any common Pound within the said Limits, or in such other Place as the Commissioners appoint for that Purpose, and may detain the same therein until the Owner thereof pay to the Commissioners a Penalty not exceeding Forty Shillings, besides the reasonable Expenses of impounding and keeping such Cattle.

Penalty for
Straying.

Also the Section numbered 25 of the said Act :

Power to sell
stray Cattle for
Penalty and Ex-
pences.

XXV. If the said Penalty and Expenses be not paid within Three Days after such impounding, the Pound-keeper, or other Person appointed by the Commissioners for that Purpose, may proceed to sell or cause to be sold any such Cattle ; but previous to such Sale Seven Days Notice thereof shall be given to or left at the Dwelling House or Place of Abode of the Owner of such Cattle, if he be known, or if not, then Notice of such intended Sale shall be given by Advertisement, to be inserted Seven Days before such Sale in some Newspaper published or circulated within the Limits of the special Act ; and the Money arising from such Sale, after deducting the said Sums, and the Expenses aforesaid, and all other Expenses attending the impounding, advertising, keeping, and Sale of any such Cattle so impounded, shall be paid to the Commissioners, and shall be by them paid, on Demand, to the Owner of the Cattle so sold.

Also the Section numbered 26 of the said Act :

Persons guilty of
Pound-breach to
be committed for
Three Months.

XXVI. Every Person who releases or attempts to release any Cattle from any Pound or Place where the same are impounded under the Authority of this or the special Act, or who pulls down, damages, or destroys the same Pound or Place, or any Part thereof, with Intent to procure the unlawful Release of such Cattle, shall, upon Conviction of such Offence before any Two Justices, be committed by them to some Common Gaol or House of Correction for any Time not exceeding Three Months.

Also the Section numbered 27 of the said Act.

(Secs. 59.60.)

XXVII. The Commissioners may purchase a Piece of Land within the Limits of the special Act for the Purpose of a Pound for stray Animals, and may erect a Pound thereon, and such Pound when made shall be kept in repair by the Commissioners.

Power to provide a Pound.

And with respect to Annoyances in the Streets, be it enacted,

Street Annoyances.

LX. That the following Sections of the "Town Police Clauses Act, 1847," shall be incorporated with this Act, and shall extend not only to the Borough but to any Place within One Mile in a direct Line from the Church of *Saint Mary Cheltenham* :

Sections 28 and 29 of 10 and 11 Vict. c. 89 incorporated with this Act.

The Section numbered 28 of the said Act ; but the Prohibition therein contained as to drawing a Carriage on the Footway shall not extend to Wheel Chairs or Fly Chairs which may now be lawfully drawn upon the Footway :

XXVIII. Every Person who in any Street, to the Obstruction, Annoyance, or Danger of the Residents or Passengers, commits any of the following Offences, shall be liable to a Penalty not exceeding Forty Shillings for each Offence, or, in the Discretion of the Justice before whom he is convicted, may be committed to Prison, there to remain for a Period not exceeding Fourteen Days, and any Constable or other Officer appointed by virtue of this or the special Act shall take into Custody, without Warrant, and forthwith convey before a Justice, any Person who within his View commits any such Offence ; (that is to say,)

Penalty on Persons committing any of the Offences herein named.

Every Person who exposes for Show, Hire, or Sale (except in a Market or Market Place or Fair lawfully appointed for that Purpose) any Horse or other Animal, or exhibits in a Caravan or otherwise any Show or public Entertainment, or shoes, bleeds or farries any Horse or Animal (except in Cases of Accident,) or cleans, dresses, exercises, trains or breaks, or turns loose any Horse or Animal, or makes or repairs any Part of any Cart or Carriage (except in Cases of Accident where Repair on the Spot is necessary) :

As to Exposing, &c. Horses, &c. for sale, &c.

Every Person who suffers to be at large any unmuzzled ferocious Dog, or sets on or urges any Dog or other Animal to attack, worry, or put in fear any Person or Animal :

Dogs.

Every Owner of any Dog who suffers such Dog to go at large, knowing or having reasonable Ground for believing it to be in a rabid State, or to have been bitten by any Dog or other Animal in a rabid State :

Every Person, who after public Notice given by any Justice directing Dogs to be confined on account of Suspicion of Canine Mad-

(Section 60.)

ness, suffers any Dog to be at large during the Time specified in such Notice :

Slaughtering, &c.
cattle.

Every Person who slaughters or dresses any Cattle, (a.) or any Part thereof, except in the Case of any Cattle over-driven which may have met with any Accident, and which for the public Safety or other reasonable Cause ought to be killed on the Spot :

Waggons, Carts,
Carriages.

Every Person having the Care of any Waggon, Cart, or Carriage who rides on the Shafts thereof, or who without having Reins, and holding the same, rides upon such Waggon, Cart, or Carriage, or on any Animal drawing the same, or who is at such a Distance from such Waggon, Cart, or Carriage, as not to have due Control over every Animal drawing the same, or who does not, in meeting any other Carriage, keep his Waggon, Cart, or Carriage to the left or near Side, or who in passing any other Carriage does not keep his Waggon, Cart, or Carriage on the right or off Side of the Road (except in Cases of actual Necessity, or some sufficient Reason for Deviation,) or who, by obstructing the Street, wilfully prevents any Person or Carriage from passing him, or any Waggon, Cart, or Carriage under his Care :

Every Person who at one Time drives more than Two Carts or Waggons, and every Person driving Two Carts or Waggons who has not the Halter of the Horse in the last Cart or Waggon securely fastened to the Back of the first Cart or Waggon, or has such Halter of a greater Length from such Fastening to the Horse's Head than Four Feet :

Driving
furiously.

Every Person who rides or drives furiously any Horse or Carriage, or drives furiously any Cattle :

Carriages, &c.
Horses, &c. ob-
structing.

Every Person who causes any public Carriage, Sledge, Truck, or Barrow, with or without Horses, or any Beast of Burden, to stand longer than is necessary for loading or unloading Goods, or for taking up or setting down Passengers (except Hackney Carriages, and Horses and other Beasts of Draught or Burthen, standing for Hire in any Place appointed for that Purpose by the Commissioners or other lawful Authority), and every Person who, by means of any Cart, Carriage, Sledge, Truck, or Barrow, or any Animal, or other Means, wilfully interrupts any public Crossing, or wilfully causes any Obstruction in any public Footpath or other public Thoroughfare :

Drawing Timber.

Every Person who causes any Tree or Timber or Iron Beam to be drawn in or upon any Carriage, without having sufficient Means of safely guiding the same :

Obstructions,
projections, &c.
on footways.

Every Person who leads or rides any Horse or other Animal, or draws or drives any Cart or Carriage, Sledge, Truck, or Barrow

[a] See the Interpretation of the word "Cattle" in the Note Page 7, Sec. 3, ante.

upon any Footway of any Street, or Fastens any Horse or other Animal so that it stands across or upon any Footway: (Section 60.)

Every Person who places or leaves any Furniture, Goods, Wares, or Merchandize, or any Cask, Tub, Basket, Pail, or Bucket, or places or uses any Standing-place, Stool, Bench, Stall, or Show-board on any Footway, or who places any Blind, Shade, Covering, Awning, or other Projection over or along any such Footway, unless such Blind, Shade, Covering, Awning, or other Projection is Eight Feet in Height at least in every Part thereof from the Ground:

Every Person who places, hangs up, or otherwise exposes to Sale any Goods, Wares, Merchandize, Matter, or Thing whatsoever, so that the same project into or over any Footway, or beyond the Line of any House, Shop, or Building at which the same are so exposed, so as to obstruct or incommode the Passage of any Person over or along such Footway:

Every Person who rolls or carries any Cask, Tub, Hoop, or Wheel, or any Ladder, Plank, Pole, Timber, or Log of Wood, upon any Footway, except for the Purpose of loading or unloading any Cart or Carriage, or of crossing the Footway:

Every Person who places any Line, Cord, or Pole across any Street, or hangs or places any Clothes thereon:

Every common Prostitute or Nightwalker loitering and importuning Prostitutes. Passengers for the Purpose of Prostitution:

Every Person who wilfully and indecently exposes his Person: Exposing person.

Every Person who publicly offers for Sale or Distribution, or exhibits to public View, any profane, indecent, or obscene Book, Paper, Print, Drawing, Painting, or Representation, or sings any profane or obscene Song or Ballad, or uses any profane or obscene Language: Profane, &c. Songs, &c.

Every Person who wantonly discharges any Firearm, or throws or discharges any Stone or other Missile, or makes any Bonfire, or throws or sets fire to any Firework: Fire-arms, &c.

Every Person who wilfully and wantonly disturbs any Inhabitant, by pulling or ringing any Door Bell, or knocking at any Door, or who wilfully and unlawfully extinguishes the Light of any Lamp: Ringing Bells, &c.

Every Person who flies any Kite, or who makes or uses any Slide Kites, Slides upon Ice or Snow:

Every Person who cleanses, hoops, fires, washes, or scalds any Cask or Tub, or hews, saws, bores, or cuts any Timber or Stone, or slacks, sifts, or screens any Lime: Cleaning Casks, cutting timber, &c.

*(Section 60.)*Throwing stones,
&c.

Every Person who throws or lays down any Stones, Coals, Slate, Shells, Lime, Bricks, Timber, Iron, or other Materials (except Building Materials so inclosed as to prevent Mischief to Passengers):

Beating carpets,
&c.

Every Person who beats or shakes any Carpet, Rug, or Mat (except Door Mats, beaten or shaken before the Hour of Eight in the Morning):

Flower pots at
windows, &c.

Every Person who fixes or places any Flower-pot or Box, or other heavy Article, in any upper Window, without sufficiently guarding the same against being blown down:

Throwing slates,
&c. from roofs,
&c.

Every Person who throws from the Roof or any Part of any House or other Building any Slate, Brick, Wood, Rubbish, or other Thing, except Snow thrown so as not to fall on any Passenger:

Cleaning win-
dows from sills.

Every Occupier of any House or other Building or other Person who orders or permits any Person in his Service to stand on the Sill of any Window, in order to clean, paint, or perform any other Operation upon the Outside of such Window, or upon any House or other Building within the said Limits, unless such Window be in the sunk or Basement Story:

Coverings, &c.
to cellars, &c.

Every Person who leaves open any Vault or Cellar, or the Entrance from any Street to any Cellar or Room underground, without a sufficient Fence or Handrail, or leaves defective the Door, Window, or other Covering of any Vault or Cellar, or who does not sufficiently fence any Area, Pit, or Sewer left open, or who leaves such open Area, Pit, or Sewer without a sufficient Light after Sunset to warn and prevent Persons from falling thereinto:

Throwing dirt,
&c. offensive
matter, &c.

Every Person who throws or lays any Dirt, Litter, or Ashes, or Nightsoil, or any Carrion, Fish, Offal, or Rubbish, on any Street, or causes any offensive Matter to run from any Manufactory, Brewery, Slaughter-house, Butcher's Shop, or Dunghill into any Street: Provided always, that it shall not be deemed an Offence to lay Sand or other Materials in any Street in Time of Frost, to prevent Accidents, or Litter or other suitable Materials to prevent the freezing of Water in Pipes, or in case of Sickness to prevent Noise, if the Party laying any such Things causes them to be removed as soon as the Occasion for them ceases:

Pigsties, &c.

Every Person who keeps any Pigstye to the Front of any Street, not being shut out from such Street by a sufficient Wall or Fence, or who keeps any Swine in or near any Street, so as to be a common Nuisance:

Also the Section numbered 29 of the said Act:

XXIX. Every Person drunk in any Street, and guilty of any riotous or indecent Behaviour therein, and also every Person guilty of any violent or indecent Behaviour in any Police Office or any Police Station House within the Limits of the special Act, shall be liable to a Penalty not exceeding Forty Shillings for every such Offence, or, in the Discretion of the Justice before whom he is convicted, to Imprisonment for a Period not exceeding Seven Days.

(Sections 60.
61. 62.)
Penalty on
drunken Per-
sons, &c. guilty
of riotous or in-
decent Be-
haviour.

Also any Person who wantonly, mischievously, or idly chalks, writes, or paints upon any House or other Building, Wall, or Pavement :

Chalking, &c.
walls, &c.

And also any Person who writes, paints, exposes, or designates any obscene, immoral, or offensive Word, Picture, or Representation upon a Place, Matter, or Thing, so as to be legible or visible from or in any Street.

Writing, &c.
offensive words,
&c.

LXI. That no Dog shall be used as a Beast of Draught or Burden within the Borough or within One Mile in a direct Line from the Church of *Saint Mary, Cheltenham* ; and every Person so using any Dog shall forfeit any Sum not exceeding Five Pounds, and any Constable may seize and detain any Dog so used for any such Purpose ; and any Constable may also within the said Limits seize and detain any unmuzzled ferocious Dog, or any Dog going at large which there is reasonable Ground for believing to be in a rabid State, or to have been bitten by any other Dog or Animal in a rabid State, or any Dog which on the Expiration of Twelve Hours after public Notice given by the public Crier, by Order of the Commissioners, directing Dogs to be confined, is found at large in the Borough during the Period specified in such Notice, and any Constable may destroy any such Dog, or sell any such Dog not suspected to be rabid, at any Time not less than Two Days after the same has been so seized : Provided always, that such Seizure and Destruction shall not exempt the Owner of any such Dog from any Penalty to which he may be in any way liable in respect of such Dog ; and that after Payment of all Expenses the Proceeds of the Sale of any such Dog shall go to the Borough Fund.

Dogs not to be
used as Beasts of
Draught or
Burden.

For preventing
Spread of Canine
Madness.

And with respect to naming and numbering the Streets, be it enacted,

Street Naming.

LXII. That the following Sections of "The Towns Improvement Clauses Act, 1847," shall be incorporated with this Act :

Sections 64 and
65 of 10 and 11
Vict. c. 34. in-
corporated with
this Act.

The Section numbered 64 of the said Act :

(Sections 62.
63. 64.)

Houses to be
numbered and
Streets named.

Penalty for de-
facing, &c.

LXIV. The Commissioners shall from Time to Time cause the Houses and Buildings in all or any of the Streets to be marked with Numbers as they think fit, and shall cause to be put up or painted on a conspicuous Part of some House, Building, or Place at or near each End, Corner, or Entrance of every such Street the Name by which such Street is to be known ; and every Person who destroys, pulls down, or defaces any such Number or Name, or puts up any Number or Name different from the Number or Name put up by the Commissioners, shall be liable to a Penalty not exceeding Forty Shillings for every such Offence.

And the Section numbered 65 of the same Act.

Numbers of
Houses to be re-
newed by Occu-
piers.

LXV. The Occupiers of Houses and other Buildings in the Streets shall mark their Houses with such Numbers as the Commissioners approve of, and shall renew such Numbers as often as they become obliterated or defaced ; and every such Occupier who fails, within One Week after Notice for that Purpose from the Commissioners, to mark his House with a Number approved of by the Commissioners, or to renew such Number when obliterated, shall be liable to a Penalty not exceeding Forty Shillings ; and the Commissioners shall cause such Numbers to be marked or to be renewed, as the Case may require, and the Expence thereof shall be repaid to them by such Occupier, and shall be recoverable as Damages. (a)

And in default,
by Commission-
ers at Occupier's
expence.

Improving
streets.

And with respect to improving Streets and removing Obstructions, be it enacted,

Section 73 of 11
and 12 Vict. c. 63
incorporated
with this Act.

LXIII. That the Section numbered 73 of "The Public Health Act, 1848," shall be incorporated with this Act.

Commissioners
may purchase
Premises in
order to improve
Streets.

LXXIII. And be it enacted, That the said Local Board may, by Agreement, purchase any Premises for the Purpose of widening, opening, enlarging, or otherwise improving any Street, and any Part of the Premises so purchased which shall not be wanted for that Purpose shall be resold at the best Price that can be gotten for the same, and the Proceeds of such Resale shall be carried to the District Fund Account herein-after mentioned.

Sections 66 and
68 to 74 of 10
and 11 Vict. c.
34. incorporated
with this Act.

LXIV. That the following Sections of "The Towns Improvement Clauses Act, 1847," shall be incorporated with this Act :

The Section numbered 66 of the said Act :

Houses may be
set forward for
improving Line
of Street.

LXVI. The Commissioners may allow, upon such Terms as they think fit, any Building within the Limits of the special Act to be set forward, for improving the Line of the Street in which such Building, or any Building adjacent thereto, is situated.

(a) See note to section 129 of the Public Health Act, post sec. 127, as to recovery of these damages.

Also the Section numbered 68 of the same Act :

LXVIII. When any House or Building, any Part of which projects beyond the regular Line of the Street, or beyond the Front of the House or Building on either Side thereof, has been taken down in order to be rebuilt or altered, the Commissioners may require the same to be set backwards to or toward the Line of the Street, or the Line of the adjoining Houses or Buildings, in such Manner as the Commissioners direct, for the Improvement of such Street: Provided always, that the Commissioners shall make full Compensation to the Owner of any such House or Building for any Damage he thereby sustains.

Houses projecting beyond Line of Street, when taken down, to be set back.

Compensation for damage.

Also the Section numbered 69 of the same Act :

LXIX. The Commissioners may give Notice to the Occupier of any House or Building to remove or alter any Porch, Shed, projecting Window, Step, Cellar, Cellar Door or Window, Sign, Signpost, Signiron, Showboard, Window Shutter, Wall, Gate, or Fence, or any other Obstruction or Projection erected or placed, after the passing of the special Act, against or in front of any House or Building within the Limits of the special Act, and which is an Obstruction to the safe and convenient Passage along any Street; and such Occupier shall, within Fourteen Days after the Service of such Notice upon him, remove such Obstruction, or alter the same in such Manner as shall have been directed by the Commissioners, and in default thereof shall be liable to a Penalty not exceeding Forty Shillings: and the Commissioners in such Case may remove such Obstruction or Projection, and the Expence of such Removal shall be paid by the Occupier so making Default, and shall be recoverable as Damages: (a.) Provided always, that except in the Case in which such Obstructions or Projections were made or put up by the Occupier, such Occupier shall be entitled to deduct the Expence of removing the same from the Rent payable by him to the Owner of the House or Building.

Future Projections of Houses, &c. to be removed, on Notice, by Occupier.

In default by Commissioners at his expence.

Occupier may deduct expence from Rent, if not the Offender.

Also the Section numbered 70 of the same Act :

LXX. If any such Obstructions or Projections were erected or placed against or in front of any House or Building in any such Street before the passing of the special Act, the Commissioners may cause the same to be removed or altered as they think fit; provided that they give Notice of such intended Removal or Alteration to the Occupier of the House or Building against or in front of which such Obstruction or Projection shall be Thirty Days before such Alteration or Removal is begun, and, if such Obstruction or Projection shall have been lawfully made, they shall make

Commissioners may cause existing Projections to be removed, and Compensation to be made.

(a) See note to section 129 of the Public Health Act, post section 127, as to the Recovery of these damages.

82 STREET DOORS, CELLAR COVERINGS, WATER SPOUTS.

(Section 64.)

reasonable Compensation to every Person who suffers Damage by such Removal or Alteration.

Also the Section numbered 71 of the same Act :

Doors in future to be made to open inwards.

LXXI. All Doors, Gates, and Bars put up after the passing of the special Act within the Limits thereof, and which open upon any Street, shall be hung or placed so as not to open outwards, except when, in the Case of public Buildings, the Commissioners allow such Doors, Gates, or Bars to be otherwise hung or placed ; and if, except as aforesaid, any such Door, Gate, or Bar be hung or placed so as to open outwards on any Street, the Occupier of such House, Building, Yard, or Land shall, within Eight Days after Notice from the Commissioners to that Effect, cause the same to be altered so as not to open outwards ; and in case he neglect so to do, the Commissioners may make such Alteration, and the Expenses of such Alteration shall be paid to the Commissioners by such Occupier, and shall be recoverable from him as Damages, (a.) and he shall, in addition, be liable to a Penalty not exceeding Forty Shillings.

Occupier to alter on Notice.

In default, Commissioners to alter at occupier's expence.

Also the Section numbered 72 of the same Act :

Doors opening outwards may be altered.

LXXII. If any such Door, Gate, or Bar was before the passing of the special Act hung so as to open outwards upon any Street, the Commissioners may alter the same, so that no Part thereof when open shall project over any public Way.

Also the Section numbered 73 of the same Act :

Coverings for Cellar Doors to be made by Occupier.

LXXIII. When any Opening is made in any Pavement or Footpath within the Limits of the special Act, as an Entrance into any Vault or Cellar, a Door or Covering shall be made by the Occupier of such Vault or Cellar, of Iron or such other Materials, and in such Manner as the Commissioners direct, and such Door or Covering shall from Time to Time be kept in good Repair by the Occupier of such Vault or Cellar ; and if such Occupier do not within a reasonable Time make such Door or Covering, or if he make any such Door or Covering contrary to the Directions of the Commissioners, or if he do not keep the same when properly made in good Repair, he shall for every such Offence be liable to a Penalty not exceeding Five Pounds.

Penalty for Neglect.

Also the Section numbered 74 of the same Act.

Waterspouts to be affixed to Houses or Buildings.

LXXIV. The Occupier of every House or Building in, adjoining, or near to any Street shall, within Seven Days next after Service of an Order of the Commissioners for that Purpose, put up and keep in good Condition a Shoot or Trough of the whole Length of such

(a.) See note to section 129 of the Public Health Act, post, section 127, as to the recovery of these damages.

House or Building, and shall connect the same either with a similar Shoot on the adjoining House or with a Pipe or Trunk to be fixed to the Front or Side of such Building from the Roof to the Ground, to carry the Water from the Roof thereof, in such Manner that the Water from such House, or any Portico or Projection therefrom, shall not fall upon the Persons passing along the Street, or flow over the Footpath ; and in default of Compliance with any such Order within the Period aforesaid such Occupier shall be liable to a Penalty not exceeding Forty Shillings for every Day that he shall so make default. (Secs. 64.65)

Penalty for neglect.

And with respect to Precautions during the Construction and Repairs of Sewers, Street, and Houses, be it enacted, Repairs. Precautions.

LXV. That the following Sections of "The Towns Improvement Clauses Act, 1847," shall be incorporated with this Act : Sections 79 to 83 of 10 & 11 Vict. c. 84. incorporated with this Act.

The Section numbered 79 of the said Act :

LXXIX. The Commissioners shall, during the Construction or Repairs of any of the Streets vested in them, and during the Construction or Repair of any Sewers or Drains, take proper Precaution for guarding against Accident, by shoreing-up and protecting the adjoining Houses, and shall cause such Bars or Chains to be fixed across or in any of the Streets, to prevent the Passage of Carriages and Horses while such Works are carried on, as to them shall seem proper ; and the Commissioners shall cause any Sewer or Drain or other Works, during the Construction or Repair thereof by them, to be lighted and guarded during the Night, so as to prevent Accidents ; and every Person who takes down, alters, or removes any of the said Bars or Chains, or extinguishes any Light, without the Authority or Consent of the Commissioners, shall for every such Offence be liable to a Penalty not exceeding Five Pounds. Bars to be erected by Commissioners across Streets while their Repairs or Alterations are making, & Lights placed at Night.

Penalty for removing, &c.

Also the Section numbered 80 of the said Act :

LXXX. Every Person intending to build or take down any Building within the Limits of the special Act, or to cause the same to be so done, or to alter or repair the outward Part of any such Building, or to cause the same to be so done, where any Street or Footway will be obstructed or rendered inconvenient by means of such Work, shall before beginning the same cause sufficient Hoards or Fences to be put up, in order to separate the Building where such Works are being carried on from the Street, with a convenient Platform and Handrail, if there be Room enough, to serve as a Footway for Passengers, outside of such Hoard or Fence, and shall continue such Hoard or Fence, with such Platform and Handrail as aforesaid, standing and in good Condition, to the Satisfaction of Hoards to be set up during Repairs, by private parties.

(Sec. 65.)

Penalty for neglect, or not removing on notice from Commissioners.

the Commissioners, during such Time as the public Safety or Convenience requires, and shall in all Cases in which it is necessary, in order to prevent Accidents, cause the same to be sufficiently lighted during the Night; and every such Person who fails to put up such Fence or Hoard, or Platform with such Handrail as aforesaid, or to continue the same respectively standing and in good Condition as aforesaid during the Time aforesaid, or who does not, while the said Hoard or Fence is standing, keep the same sufficiently lighted in the Night, or who does not remove the same, when directed by the Commissioners, within a reasonable Time afterwards, shall for every such Offence be liable to a Penalty not exceeding Five Pounds, and a further Penalty not exceeding Forty Shillings for every Day while such Default is continued.

Also the Section numbered 81 of the said Act :

Penalty for not lighting and fencing Deposits of Building Materials or Excavations.

LXXXI. When any Building Materials, Rubbish, or other Things are laid, or any Hole made, in any of the Streets, whether the same be done by Order of the Commissioners or not, the Person causing such Materials or other Things to be so laid, or such Hole to be made, shall at his own Expence cause a sufficient Light to be fixed in a proper Place upon or near the same, and continue such Light every Night from Sun-setting to Sun-rising while such Materials or Hole remain; and such Person shall, at his own Expence, cause such Materials or other Things and such Hole to be sufficiently fenced and inclosed until such Materials or other Things are removed or the Hole filled up or otherwise made secure; and every such Person who fails so to light, fence, or inclose such Materials or other Things, or such Hole, shall for every such Offence be liable to a Penalty not exceeding Five Pounds, and a further Penalty not exceeding Forty Shillings for every Day while such Default is continued.

Also the Section numbered 82 of the said Act :

Penalty for continuing Deposits of Building Materials or Excavations an unreasonable Time.

LXXXII. In no Case shall any such Building Materials or other Things or such Hole be allowed to remain for an unnecessary Time, under a Penalty not exceeding Five Pounds to be paid for every such Offence by the Person who causes such Materials or other Things to be laid or such Hole to be made, and a further Penalty not exceeding Forty Shillings for every Day during which such Offence is continued after the Conviction for such Offence; and in any such Case the Proof that the Time has not exceeded the necessary Time shall be upon the Person so causing such Materials or other Things to be laid, or causing such Hole to be made.

Also the Section numbered 83 of the said Act.

LXXXIII. If any Building or Hole or any other Place near any Street be, for Want of sufficient Repair, Protection, or Inclosure, dangerous to the Passengers along such Street, the Commissioners shall cause the same to be repaired, protected, or inclosed, so as to prevent Danger therefrom; and the Expences of such Repair, Protection, or Inclosure shall be repaid to the Commissioners by the Owner of the Premises so repaired, protected, or inclosed, and shall be recoverable from him as Damages. (*a.*)

(Secs. 65.66)
Dangerous
Places to be re-
paired or in-
closed.

And with respect to ruinous or dangerous Buildings, be it enacted,

Ruinous
Buildings.

LXVI. That the following Sections of "The Towns Improvement Clauses Act, 1847," shall be incorporated with this Act :

Sections 75 to 78
of 10 and 11 Vict.
c. 34. incorpo-
rated with this
Act.

The Section numbered 75 of the said Act :

LXXV. If any Building or Wall, or any Thing affixed thereon, within the Limits of the special Act, be deemed by the Surveyor of the Commissioners to be in a ruinous State, and dangerous to Passengers or to the Occupiers of the neighbouring Buildings, such Surveyor shall immediately cause a proper Hoard or Fence to be put up for the Protection of Passengers, and shall cause Notice in Writing to be given to the Owner of such Building or Wall, if he be known and resident within the said Limits, and shall also cause such Notice to be put on the Door or other conspicuous Part of the said Premises, or otherwise to be given to the Occupier thereof, if any, requiring such Owner or Occupier forthwith to take down, secure, or repair such Building, Wall, or other Thing, as the Case shall require; and if such Owner or Occupier do not begin to repair, take down, or secure such Building, Wall, or other Thing within the Space of Three Days after any such Notice has been so given or put up as aforesaid, and complete such Repairs, or taking down or securing, as speedily as the Nature of the Case will admit, the said Surveyor may make Complaint thereof before Two Justices, (*b.*) and it shall be lawful for such Justices to order the Owner, or in his Default the Occupier (if any), of such Building, Wall, or other Thing, to take down, rebuild, repair, or otherwise secure, to the Satisfaction of such Surveyor, the same, or such Part thereof as appears to them to be in a dangerous State, within a Time to be fixed by such Justices; and in case the same be not taken down, repaired, rebuilt, or otherwise secured within the Time so limited, or if no Owner or Occupier can be found on whom to serve such Order, the Com-

Ruinous or dan-
gerous Buildings
to be taken down
or secured by
Owners, &c.

If Owner, &c.
neglect to repair,
Commissioners
may cause the
same to be done,
charging Owner,
&c. with the Ex-
pences.

(*a.*) See Note to Sec. 129 of the Public Health Act, post section 127, as to the Recovery of these Damages.

(*b.*) The mode of proceeding before Justices is regulated by the 131st section of the Public Health Act, incorporated by section 127 post.

(Section 66.)

missioners shall with all convenient Speed cause all or so much of such Building, Wall, or other Thing as shall be in a ruinous Condition, and dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured in such Manner as shall be requisite ; and all the Expences of putting up every such Fence, and of taking down, repairing, rebuilding, or securing such Building, Wall, or other Thing, shall be paid by the Owner thereof.

Also the Section numbered 76 of the said Act :

The Expences to be levied by Distress on the Owner.

LXXVI. If such Owner can be found within the Limits of the special Act, and if, on Demand of the Expences aforesaid, he neglect or refuse to pay the same, then such Expences may be levied by Distress, and any Justice may issue his Warrant accordingly. (a)

Also the Section numbered 77 of the said Act :

If Owner cannot be found, Commissioners may take the House or Ground, making Compensation provided by 7 and 8 Vict. c. 18.

LXXVII. If such Owner cannot be found within the said Limits, or sufficient Distress of his Goods and Chattels within the said Limits cannot be made, the Commissioners, after giving Twenty-eight Days Notice of their Intention to do so, by posting a printed or written Notice in a conspicuous Place on such Building, or on the Land whereon such Building stood, may take such Building or Land, provided that such Expences be not paid or tendered to them within the said Twenty-eight Days, making Compensation to the Owner of such Building or Land in the Manner provided by the Lands Clauses Consolidation Act, (b.) 1845, in the Case of Lands taken otherwise than with the Consent of the Owners and Occupiers thereof, and the Commissioners shall be entitled to deduct out of such Compensation the Amount of the Expences aforesaid, and may thereupon sell or otherwise dispose of the said Building or Land for the Purposes of this Act.

Also the Section numbered 78 of the said Act.

Commissioners may sell the Materials, restoring to the Owner Overplus arising from the Sale.

LXXVIII. If any such House or Building as aforesaid, or any Part of the same, be pulled down by virtue of the Powers aforesaid, the Commissioners may sell the Materials thereof, or so much of the same as shall be pulled down; and apply the Proceeds of such Sale in Payment of the Expences incurred in respect of such House or Building; and the Commissioners shall restore any Overplus arising from such Sale to the Owner of such House or Building, on Demand; nevertheless, the Commissioners, although they sell such Materials for the Purposes aforesaid, shall have the same Remedies for compelling the Payment of so much of the said Ex-

[a.] The mode of proceeding before Justices is regulated by the 131st Sec. of the Public Health Act, incorporated by Sec. 127 post.

[b.] See this Act inserted in full in Appendix, No. 6. The compensation clauses are sections 22 to section 68, both inclusive. The clauses as to the application of Compensation money, are section 69 to section 80, both inclusive. See section 26 and note, ante, page 41.

pences as may remain due after the Application of the Proceeds of such Sale as are herein before given to them or compelling the Payment of the whole of the said Expences. (Secs. 66.67)

And with respect to Police, and the Appointment, Powers, and Duties, and Privileges of Constables, be it enacted, Police.

LXVII. That the following Sections of "The Town Police Clauses Act, 1847," shall be incorporated with this Act :

Sections 6 to 20, and 34, 35, & 36 of 10 and 11 Vict. c. 89. incorporated with this Act.

The Section numbered 6 in the said Act :

VI. If any Constables (a.) shall have been appointed within the Limits of the special Act under the Provisions of an Act passed in the Third Year of the Reign of Her Majesty, intituled *An Act for the Establishment of County and District Constables by the Authority of the Justices of the Peace* ; and of another Act passed in the Fourth Year of the Reign of Her Majesty, intituled *An Act to amend the Act for the Establishment of County and District Constables*; and if the Justices for the County in which such District is situated, in General or Quarter Session assembled, report to One of Her Majesty's Principal Secretaries of State that the Constables so appointed ought to be discontinued, and the said Constables be, in pursuance thereof or otherwise, discontinued, or where no Constables shall have been appointed under the Provisions of the last-mentioned Act, the Commissioners may from Time to Time appoint and employ a Superintendent Constable and also such Number of Constables as they judge necessary for the Protection of the Inhabitants and Property within the said Limits, and allow the Superintendent Constable and the other Constables such Salaries or Wages as they think proper ; and it shall be lawful for the Commissioners from Time to Time to remove any such Superintendent Constable, Constables, and Officers as they thing fit. Appointment of Constables. 2 and 3 Vict. c. 93. 3 and 4 Vict. c. 88. And Removal.

Also the Section numbered 7 in the said Act :

VII. Where Constables shall have been appointed under the last Two recited Acts, or either of them, the Commissioners, if they think it necessary so to do, may apply to the Chief Constable of the County in which the District within the said Limits is situated, under the Provisions of the last-recited Act, to appoint any additional Number of Constables within the said Limits, and they may pay the Charge of such Appointments out of the Rates to be levied under this and the special Act. Power to apply for additional Constables in case of Need. And pay the charge.

Also the Section numbered 8 in the said Act :

(a.) The County Constabulary have been in existence many years in Cheltenham.

(Section 67.)
Constables to be
sworn in.

Duties and Pow-
ers of.

VIII. Any Justice may swear in any Person appointed and employed as a Constable under this and the special Act, and the Constables so sworn in shall have, within the Limits of the special Act, and in any Place not more than Five Miles beyond such Limits, the like Powers, Privileges, and Duties, (a.) and shall have the same Indemnities and Protection, and shall be subject to the like Penalties and Forfeitures, as any Constable duly appointed has or is subject to within his Constabewick by Law.

Also the Section numbered 9 in the said Act :

Expences of Pro-
secution, and Al-
lowances to Con-
stables.

IX. The Commissioners may defray the Expence of prosecuting any Felons or Offenders, and of defending any Constable in the execution of his Duty, and may make such Allowances to any Constable disabled in the Execution of his Duty, or worn out by Length of Service, as the Commissioners think reasonable.

Also the Section numbered 10 in the said Act :

Constables not to
resign without
Leave or Notice.

Penalty.

X. No Constable appointed under this or the special Act shall resign his Office, or withdraw himself from the Duties thereof, unless expressly allowed so to do in Writing by the Commissioners or by the Superintendent Constable, or until after he has given to such Superintendent Constable One Month's Notice ; and every Constable who so resigns or withdraws himself without such Leave or Notice shall be liable to forfeit all Arrears of Pay then due to him, or to a Penalty of not more than Five Pounds, or, in the Discretion of the Justices before whom he shall be convicted, may be committed to Prison, there to remain for a Time not exceeding Fourteen Days.

Also the Section numbered 11 in the said Act :

Constables dis-
missed to deliver
up Accoutre-
ments.

Search for.

XI. Every Constable appointed under this or the special Act who is dismissed from or ceases to hold and exercise his Office shall forthwith deliver over to the Superintendent Constable, or to such Person and at such Time and Place as the Commissioners direct, all the Clothing, Accoutrements, Appointments, and other Necessaries which have been supplied to him for the Execution of his Duty, under pain of Imprisonment, with or without hard Labour, for any Time not exceeding One Month ; and any Justice of the Peace may issue his Warrant to search for and seize to the Use of the Commissioners all the Clothing, Accoutrements, Appointments, and other Necessaries not so delivered over, wherever the same are found.

Also the Section numbered 12 in the said Act :

(a.) See further as to their duties, section 14 of the Towns Police Clauses Act post.

XII. Every Person who, not being at the Time a Constable appointed under this or the special Act, has in his Possession any Article being Part of the Clothing, Accoutrements, or Appointments supplied to any such Constable, and who is not able satisfactorily to account for his Possession thereof, or who puts on the Dress or takes the Name, Designation, or Character of any Person appointed as such Constable, for the Purpose of thereby obtaining Admission into any House or other Place, or of doing or procuring to be done any Act which such Person would not be entitled to do or procure to be done of his own Authority, or for any other unlawful Purpose, shall, in Addition to any other Punishment to which he is liable for such Offence, be liable to a Penalty of not exceeding Ten Pounds.

(Section 67.)
Penalty for unlawful Possession of Accoutrements, or for assuming the Dress of Constables.

Also the Section numbered 13 in the said Act :

XIII. The Commissioners may from Time to Time purchase or rent any Building or Land, and convert such Buildings into or build on such Land Offices, Watch-houses, Lock-up Houses, and other Places necessary for the Purposes of this and the special Act, with all proper Conveniences thereto, and may repair the same from Time to Time, and furnish and fit up the same, and employ proper Persons to take care thereof.

Power to provide Offices, Watch-houses, &c.

Also the Section numbered 14 in the said Act :

XIV. The Constables appointed by virtue of this and the special Act shall keep Watch and Ward within the Limits of the special Act, and shall use their best Endeavours to prevent any Mischief by Fire, and all Felonies, Misdemeanors, and Breaches of the Peace.

Duties of Constables.

And besides the Duties mentioned in the said Section, the Constables shall also obey all lawful Directions of the Commissioners for enforcing the Provisions and executing the Purposes of this Act, or any Byelaw made under the same : (a.)

Also the Section numbered 15 in the said Act :

XV. Any Person found committing any Offence punishable either upon Indictment or as a Misdemeanor upon summary Conviction by virtue of this or the special Act may be taken into Custody, without a Warrant, by any of the said Constables, or may be apprehended by the Owner of the Property on or with respect to which the Offence is committed, or by his Servant or any Person authorized by him, and may be detained until he can be delivered into the Custody of a Constable ; and the Persons so arrested

Power to Police Constables and Persons aggrieved to apprehend certain Offenders.

(a.) See further as to their duties, section 8 of the Towns Police Clauses Act, ante, page 88.

(Sec. 67.)

shall be taken, as soon as conveniently may be, before some Justice, to be examined and dealt with according to Law: Provided always, that no Person arrested under the Powers of this or the special Act shall be detained in Custody by any Constable or other Officer, without the Order of some Justice, longer than shall be necessary for bringing him before a Justice, or than Forty Hours at the utmost.

Also the Section numbered 16 in the said Act :

Penalty for
Neglect of Duty.

XVI. Every Constable acting within the Limits of the special Act who is guilty of any Neglect or Violation of his Duty as a Constable, and convicted thereof before Two Justices, shall be liable to a Penalty not exceeding Ten Pounds, the Amount of which Penalty may be deducted from the Salary or Wages due to him or to become due to him, or, in the Discretion of the Justices before whom he is convicted, he may lawfully be imprisoned for any Time not exceeding One Month, with or without hard Labour.

Or Imprison-
ment.

Also the Section numbered 17 in the said Act :

Power to con-
stables to take
Recognizances.

XVII. Whenever any Person charged with any Offence under this or the special Act, or any Act incorporated therewith, not amounting to Felony, and of which he is liable to be summarily convicted before a Justice, is in the Custody of any Constable acting as aforesaid, without the Warrant of a Justice, the Superintendent Constable of the District, or appointed under this Act, or other the superior Officer of Police acting within the said Limits, may, if he deem it prudent so to do, but in such Cases only in which the Offender cannot be conveniently taken before a Justice, take the Recognizance of such Person, with or without Sureties, conditioned as herein-after mentioned.

Also the Section numbered 18 in the said Act :

Form of Recog-
nizances.

XVIII. Every Recognizance so taken shall be taken without Fee or Reward, and shall be conditioned for the Appearance of the Person thereby bound before a Justice, at a certain Day not later than Seven Days from the Date of such Recognizance, and the Time and Place of such Appearance shall be specified in the Recognizance.

Also the Section numbered 19 in the said Act :

Recognizances
to be registered
and returned to
the Justice.

XIX. The Officer taking any such Recognizance shall enter in a Book to be kept for that Purpose the Name, Residence, and Occupation of the Party and his Sureties, if any, entering into such Recognizance, together with the Condition thereof, and the Sum thereby acknowledged, and shall return every such Recognizance

to the Justice at the Time and Place when and where the Party (Section 67.) is bound to appear, and every such Recognizance shall have the like Force and Effect as if the same had been taken before a Justice.

Also the Section numbered 20 in the said Act :

XX. Every Person who assaults or resists, or who aids or incites any Person to assault or resist, any Constable in the Execution of his Duty under the Provisions of this or the special Act, shall for every such Offence be liable to a Penalty not exceeding Five Pounds, or, in the Discretion of the Justice before whom he is convicted, may be imprisoned for any Term not exceeding One Month, with or without hard Labour. Penalties or Imprisonment on Persons assaulting Constables.

Also the Section numbered 34 in the said Act :

XXXIV. Every Victualler or Keeper of any Public House, or Person licensed to sell Wine, Spirits, Beer, Cider, or other fermented or distilled Liquors by retail, to be drunk or consumed on the Premises, within the Limits of the special Act, who knowingly harbours or entertains or suffers to remain in his Public House or Place wherein he carries on his Business any Constable during any Part of the Time appointed for his being on Duty, unless for the Purpose of quelling any Disturbance or restoring Order, shall, for every such Offence, be liable to a Penalty not exceeding Twenty Shillings. Penalty on Victuallers harbouring Constables while on Duty.

Also the Section numbered 35 in the said Act :

XXXV. Every Person keeping any House, Shop, Room, or other Place of public Resort within the Limits of the special Act for the Sale or Consumption of Refreshments of any Kind who knowingly suffers common Prostitutes or reputed Thieves to assemble at and continue in his Premises shall, for every such Offence, be liable to a Penalty not exceeding Five Pounds. Penalty on Coffee Shop Keepers harbouring disorderly Persons.

Also the Section numbered 36 in the said Act.

XXXVI. Every Person who within the Limits of the special Act keeps or uses or acts in the Management of any House, Room, Pit, or other Place for the Purpose of fighting, baiting, or worrying any Animals shall be liable to a Penalty of not more than Five Pounds, or, in the Discretion of the Justices before whom he is convicted, to Imprisonment, with or without hard Labour, for a Time not exceeding One Month ; and the Commissioners may, by Order in Writing, authorize the Superintendent Constable, with such Constables as he thinks necessary, to enter any Premises kept or used for any of the Purposes aforesaid, and take into Custody all Persons found therein without lawful Excuse, and Penalty or Imprisonment on Persons keeping Places for Bear-baiting, Cock-fighting, &c.

Entry by Constables.

(Section 68.)
Penalty for party
being there with-
out excuse.

every Person so found shall be liable to a Penalty not exceeding Five Shillings, and a Conviction for this Offence shall not exempt the Owner, Keeper, or Manager of any such House, Room, Pit, or Place from any penal Consequence to which he is liable for the Nuisance thereby occasioned.

Water Supply.

And with respect to the Supply of Water, be it enacted,

Sections 75 to 80
of 11 & 12 Vict.
c. 63. Incorporated
with this Act.

LXVIII. That the following Sections of the Public Health Act, 1848, shall be incorporated with this Act :

The Section numbered 75 of the said Act :

Commissioners
to provide suffi-
cient Supplies of
Water, and may
erect, purchase,
lease, or hire
Waterworks, &c.

LXXV. And be it enacted, That the Local Board of Health may provide their District with such a Supply of Water as may be proper and sufficient for the Purposes of this Act, and for private Use to the Extent required by this Act ; and for those Purposes, or any of them, the said Local Board may from Time to Time, with the Approval of the General Board of Health, contract with any Person whomsoever, or purchase, take upon Lease, hire, construct, lay down, maintain such Waterworks, and do and execute all such Works, Matters, and Things as shall be necessary and proper ; and any Waterworks Company may contract with the Local Board of Health to supply Water for the Purposes of this Act in any Manner whatsoever, or may sell and dispose of or lease their Waterworks to any Local Board of Health willing to take the same ; and the said Local Board may provide and keep in any Waterworks constructed or laid down by them under the Powers of this Act a Supply of pure and wholesome Water, and the Water so supplied may be constantly laid on at such Pressure as will carry the same to the top Story of the highest Dwelling House within the District supplied : Provided always, that before constructing or laying down any Waterworks under the Powers of this Act within any Limits within, for, or in respect of which any Waterworks Company shall have been established for supplying Water, the said Local Board shall give Notice in Writing to every Waterworks Company within whose Limits the said Local Board may be desirous of laying on or supplying Water, stating the Purposes for and (as far as may be practicable) the Extent to which Water is required by the said Local Board ; and it shall not be lawful for the said Local Board to construct or lay down any Waterworks within such Limits, if and so long as any such Company shall be able and willing to lay on Water proper and sufficient for all reasonable Purposes, for which it is required by the said Local Board, and upon such Terms as shall be certified to be reasonable by the General Board of Health, after Inquiry and Report by a Superintending Inspector in this Behalf, or (in case such

In case of Water-
works construct-
ed by Commis-
sioners, the
Water may be
kept constantly
under Pressure.

Commissioners
not to construct
Waterworks, &c.
if any Water-
works Company
within their
District be able
and willing to
supply Water
upon Terms.

Company shall be dissatisfied with such Certificate) upon such Terms as shall be settled by Arbitration in the Manner provided by this Act; and in case any Difference shall arise as to whether the Water which any such Company is able and willing to supply or lay on is proper and sufficient for the Purposes for which it is required by the said Local Board, or whether the Purposes for which it is required are reasonable, the same shall be settled by Arbitration in the Manner provided by this Act.

(Section 68.)

Arbitration on differences.

And this Section shall extend to authorize the *Cheltenham* Waterworks Company to dispose of or lease their Works to the Commissioners, notwithstanding the Prohibition against Alienation in the Act relating to such Company contained :

Cheltenham Waterworks Company may sell or lease.

Also the Section numbered 76 of the same Act :

LXXXVI. And be it enacted, That if upon the Report of the Surveyor it appear to the Local Board of Health that any House is without a proper Supply of Water, and that such a Supply of Water can be furnished thereto at a Rate not exceeding Twopence *per* Week, the said Local Board shall give Notice in Writing to the Occupier, requiring him, within a Time to be specified therein, to obtain such Supply, and to do all such Works as may be necessary for that Purpose; and if such Notice be not complied with the said Local Board may, if they shall think fit, do such Works, and obtain such Supply accordingly, and make and levy Water Rates upon the Premises, not exceeding in the whole the Rate of Twopence *per* Week, in manner herein-after provided, as if the Owner or Occupier of the Premises had demanded a Supply of Water, and were willing to pay Water Rates for the same; and the Expenses incurred by them in doing such Works as last aforesaid shall be Private Improvement Expenses, and be recoverable as such in the Manner herein-after provided.

Commissioners may require that Houses be supplied with Water, &c. in certain Cases.

And in default may lay on the water and make rates, &c.

Also the Section numbered 77 of the same Act :

LXXXVII. And be it enacted, That the Local Board of Health may, if they shall think fit, supply Water from any Waterworks purchased or constructed by them under this Act to any public Baths or Wash-houses, or for trading or manufacturing Purposes, upon such Terms and Conditions as may be agreed upon between the said Local Board and the Persons desirous of being so supplied.

Water for public Baths, trading or manufacturing Purposes.

Also the Section numbered 78 of the same Act :

LXXXVIII. And be it enacted, That the Local Board of Health may cause all existing public Cisterns, Pumps, Wells, Reservoirs, Conduits, Aqueducts, and Works used for the gratuitous Supply of Water to the Inhabitants to be continued, maintained, and plenti-

Maintenance and Construction of public Cisterns for gratuitous Use.

(Sec. 68)

And public
Baths &c.

fully supplied with Water, or they may substitute, continue, maintain, and plentifully supply with Water other such Works equally convenient; and the said Local Board may, if they shall think fit, construct any Number of new Cisterns, Pumps, Wells, Conduits, and Works for the gratuitous Supply of any public Baths or Wash-houses established otherwise than for private Profit or supported out of any Poor or Borough Rates.

Inhabitants, &c.

And the Works for the gratuitous Supply of Water mentioned in the said Section may be for the Inhabitants or others, as well as for public Baths and Washhouses:

Watering streets
cleansing sewers.

And the said Section shall extend to the maintaining any existing and to the providing any new Cisterns, Pumps, Wells, Conduits and Works for the Supply of Water for watering the Streets and for cleansing Sewers and Drains by the Commissioners:

Also the Section numbered 79 of the same Act:

Penalty for in-
juring Water-
works, diverting
Streams, or
wasting Water.

LXXIX. And be it enacted, That whosoever shall wilfully or carelessly break, injure, or open any Lock, Cock, Waste Pipe, or Waterworks belonging to or under the Management or Control of the Local Board of Health, or constructed, continued, or maintained under this Act, in any Parish or Place in which there shall be no Local Board of Health, or shall unlawfully flush, draw off, divert, or take Water from any Waterworks belonging to or under the Management or Control of the said Local Board, or so constructed, continued, or maintained in any such Parish or Place, or from any Waters or Streams by which such Waterworks are supplied, or shall wilfully or negligently waste or cause to be wasted any Water with which he is supplied by the said Local Board, shall for every such Offence forfeit a Sum not exceeding Five Pounds, and a further Penalty of Twenty Shillings for each Day whilst the Offence is continued after written Notice in that Behalf, which Penalties shall be paid to the said Local Board, or, in the Case of a Parish or Place in which there shall be no Local Board of Health, to the Churchwardens and Overseers of the Poor, to be by them applied in aid of the Rate for the Relief of the Poor of such Parish or Place: Provided always, that nothing herein contained shall prevent the Owner or Occupier of any Premises through or by which any Streams may flow from using the same as they would have been entitled to do if this Act had not been passed.

Rights to Use of
streams reserved.

Also the Section numbered 80 of the same Act.

Penalties on
Persons for
bathing in or
causing Water in
Reservoirs to be
fouled.

LXXX. And be it enacted, That whosoever shall bathe in any Stream, Reservoir, Conduit, Acqueduct, or other Waterworks belonging to or under the Management or Control of the Local Board of Health, or in any Reservoir, Conduit, Acqueduct, or other Waterworks

(Sec. 68)

constructed, continued, or maintained under this Act in any Parish or Place in which there shall be no Local Board of Health, or shall wash, cleanse, throw, or cause to enter therein any Animal, Rubbish, Filth, Stuff, or Thing of any kind whatsoever, or shall cause or permit or suffer to run or be brought therein the Water of any Sink, Sewer, Drain, Engine, or Boiler, or other filthy, unwholesome, or improper Water, or shall do anything whatsoever whereby any Water belonging to the said Local Board or under their Management or Control, or whereby any Water of or contained in any such Reservoir, Conduit, Aqueduct, or other Waterworks so constructed, continued, or maintained in any such Parish or Place as aforesaid shall be fouled, shall for every such Offence forfeit a Sum not exceeding Five Pounds, and a further Sum of Twenty Shillings for each Day whilst the Offence is continued, after written Notice in that Behalf; which Penalties shall be paid to the said Local Board, or, in the Case of a Parish or Place in which there shall be no Local Board of Health, to the Churchwardens and Overseers of the Poor, to be by them applied in aid of the Rate for the Relief of the Poor of such Parish or Place; and whosoever, being Proprietor of any Gasworks, or being engaged or employed in the Manufacture or Supply of Gas, causes or suffers to be brought or to flow into any Stream, Reservoir, Conduit, Aqueduct, or Waterworks belonging to or under the Management or Control of the said Local Board, or into any Drain or Pipe communicating therewith, any Washing or other Substance produced in the Manufacture or Supply of Gas, or shall wilfully do any Act connected with the Manufacture or Supply of Gas whereby the Water in any such Stream, Reservoir, Aqueduct, or Waterworks is fouled, shall forfeit to the said Local Board for every such Offence the Sum of Two hundred Pounds, and, after the Expiration of Twenty-four Hours Notice in Writing from them in this Behalf, a further Sum of Twenty Pounds for every Day during which the Offence is continued, or during the Continuance of the Act whereby the Water is fouled; and every such Penalty shall be recoverable, with full Costs of Suit, by Action of Debt; and if any Water supplied by, belonging to, or under the Management or Control of the said Local Board be fouled in any Manner by the Gas of any such Proprietor or Person as last aforesaid, he shall forfeit to the Local Board for every such Offence a Sum not exceeding Twenty Pounds, and a further Sum not exceeding Ten Pounds for every Day whilst the Offence is continued after the Expiration of Twenty-four Hours Notice in Writing from the said Local Board in this Behalf; and for the Purpose of ascertaining whether such Water is fouled by the Gas of any such Proprietor or Person the said Local Board may lay open and examine any Pipes, Conduits, and Works from which the Gas is supposed

Application of Penalties.

And on Proprietors of Gasworks, &c. fouling waters, &c.

Examination of Gas Pipes, &c. by Commissioners.

(Sections
68. 69. 70.)

Expenses thereof

to escape; provided that before beginning so to do Twenty-four Hours Notice in Writing be given to the Person to whom such Pipes, Conduits, or Works belong, or under whose Management or Control they may be, of the Time at which the Examination is intended to be made; and if upon such Examination it appear that the Water has been fouled by the Gas proceeding from or contained in the Pipes, Conduits, or Works examined, the Expenses of the Examination shall be paid and borne by the Person to whom such Pipes, Conduits, or Works belong, or under whose Management or Control they may be, and be recoverable from him in the summary Manner herein-after provided; but if it appear that the Water has not been so fouled, then such Expenses, and all Damages occasioned by the Examination, shall be paid by the said Local Board out of the General District Rates levied under this Act, and be recoverable from them in the summary Manner herein-after provided.

Power to Commissioners to exercise Powers of 9 & 10 Vict. c. 74. and 10 & 11 Vict. c. 51. as to Washhouses and Baths.

Expenses and Income.

Pleasure Grounds.

Section 74 of 11 & 12 Vict. c. 63. incorporated with this Act.

Commissioners may provide Places of public Recreation, &c.

Public Slaughter-houses and Trades.

LXIX. That the Commissioners may exercise in the Borough all and every or any of the Powers conferred by an Act passed in the Ninth and Tenth Year of the present Reign, intituled *An Act to encourage the Establishment of public Baths and Washhouses*, and an Act passed in the Tenth and Eleventh Year of the same Reign, to amend the same, given to Vestries, Churchwardens, and Commissioners appointed under that Act, or any of them (a.); and the Expenses of carrying this Power into execution shall be defrayed out of such Rates under this Act, and the Monies to be received, and the Income to be derived from Baths, Washhouses, and open Bathing Places, shall be carried to such Fund under this Act, as the Commissioners shall think expedient and just.

And with respect to public Pleasure Grounds, be it enacted,

LXX. That the Section numbered 74 of the Public Health Act, 1848, shall be incorporated herewith:

LXXIV. And be it enacted, That the Local Board of Health, with the Approval of the said General Board, may provide, maintain, lay out, plant, and improve Premises for the Purpose of being used as public Walks or Pleasure Grounds, and support or contribute towards any Premises provided for such Purposes by any Person whomsoever.

And the Commissioners may make Byelaws for the ordering and regulating any Pleasure Ground provided under this Act.

And with respect to the Regulation of Slaughter-houses and Trades, be it enacted,

(a.) These two Acts are set out at length in the App: No. 1, not being incorporated.

LXXI. That the following Sections of the Public Health Act, 1848, shall be incorporated with this Act :

(Sec. 71)
Sections 61 to 64
of 11 & 12 Vict.
c. 63. incorporated
with this
Act.

The Section numbered 61 of the said Act :

LXI. And be it enacted, That every Building or Place used as a Slaughter-house shall, within Three Months after this Act is applied to the District in which it is situate, or, in the Case of a Building or Place newly used as a Slaughter-house after that Time, within Three Months after the Commencement of such User, be registered by the Owner or Occupier thereof at the Office of the said Local Board in a Book which shall be kept by such Board for that Purpose ; and whosoever uses or suffers to be used any Building or Place as a Slaughter-house without its being registered as required by this Act, shall be liable for every such Offence to a Penalty not exceeding Five Pounds, and a further Penalty not exceeding Ten Shillings for every Day during the Continuance of the Offence after written Notice thereof from the said Local Board.

Slaughter houses
to be registered.

Penalty for
neglect &c.

Also the Section numbered 62 of the same Act :

LXII. And be it enacted, That the Local Board of Health may from Time to Time, if they shall think fit, provide Premises for the Purpose of being used as Slaughter-houses ; and they shall make Byelaws for and with respect to the Management and Charges for the Use of the Premises so provided, and with respect to the Inspection of all Slaughter-houses, and for keeping the same in a cleanly and proper State : Provided always, that nothing herein contained shall prejudice or affect the Rights, Privileges, Powers, or Authorities of any Persons incorporated by any Local Act of Parliament passed before the passing of this Act for the Purpose of making and maintaining Slaughter-houses for the Accommodation of any City, Town, Borough, or Place.

Commissioners
may provide
Slaughter houses
and make Bye-
laws with respect
to Slaughter-
houses in gene-
ral.

Also the Section numbered 63 of the same Act :

LXIII. (a.) And be it enacted, That the Inspector of Nuisances may and he is hereby empowered, at all reasonable Times, with or without Assistants, to enter into and inspect any Shop, Building,

Power to In-
spector of Nui-
sances to enter
Places used for
Sale of Butcher's
Meat, &c.

[a] See the 11 & 12 Vict. c. 107, section 3 (since continued periodically) by which a power to seize unwholesome meat, &c. is given to Clerks of Markets, Inspectors, Constables, Police-men, and others specially authorized in that behalf; and the offender made liable to a penalty of £20, recoverable before two Justices under section 8. and see the case of *Burnby v. Rollitt*, 11 Jurist 827, in the Exchequer in 1847, where the Court held that Victuallers, Brewers, and other common Dealers in Victuals, who in the course of their trade sell provisions unfit for the food of man, are criminally responsible under the Statute 51, Henry 3rd, "Pillor' et Tumbrel' &c." and the Statute of Edward 1st, "De Pistoribus et Brassiatoribus et aliis Vitellariis," if they do so knowingly and probably if they even do not; and are liable civilly to the Vendee without any fraud on their part or warranty of the soundness of the thing sold; but a private person not following any of these trades, who sells an unwholesome article for food, is not liable under such circumstances.

(Secs. 71. 72)

Stall, or Place kept or used for the Sale of Butcher's Meat, Poultry, or Fish, or as a Slaughter-house, and to examine any Animal, Carcase, Meat, Poultry, Game, Flesh, or Fish, which may be therein; and in case any Animal, Carcase, Meat, Poultry, Game, Flesh, or Fish appear to him to be intended for the Food of Man, and to be unfit for such Food, the same may be seized; and if it appear to a Justice, upon the Evidence of a competent Person, that any such Animal, Carcase, Meat, Poultry, Game, Flesh, or Fish is unfit for the Food of Man, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for Sale or used for such Food; and the Person to whom such Animal, Carcase, Meat, Poultry, Game, Flesh, or Fish belongs, or in whose Custody the same is found, shall be liable to a Penalty not exceeding Ten Pounds for every Animal or Carcase, Fish, or Piece of Meat, Flesh, or Fish, or any Poultry or Game, so found, which Penalty may be recovered before Two Justices in the Manner herein-after provided with respect to Penalties the Recovery whereof is not expressly provided for.

Game.

And the Provision in the said Section shall also extend to Shops and Places kept or used for the Sale of Game:

Also the Section numbered 64 of the same Act.

Offensive Trades not to be newly established without consent of Commissioners subject to General Board.

LXIV. And be it enacted, That the Business of a Blood-boiler, Bone-boiler, Fell-monger, Slaughterer of Cattle, Horses, or Animals of any Description, Soap-boiler, Tallow-melter, Tripe-boiler, or other noxious or offensive Business, (*a.*) Trade, or Manufacture, shall not be newly established in any Building or Place, after this Act is applied to the District in which such Building or Place is situate, without the Consent of the Local Board of Health, unless the said General Board shall otherwise direct; and whosoever offends against this Enactment shall be liable for each Offence to a Penalty of Fifty Pounds, and a further Penalty of Forty Shillings for each Day during which the Offence is continued; and the said Local Board may from Time to Time make such Byelaws with respect to any such Businesses so newly established as they may think necessary and proper, in order to prevent or diminish the noxious or injurious Effects thereof.

Penalty for Breaches.

Commissioners may make Byelaws for such Trades.

Nuisances.

And with respect to the Prevention of Nuisances, (*b.*) be it enacted,

Sections 55 to 60 of 11 & 12 Vict. c. 63. incorporated with this Act.

LXXII. That the following Sections of the Public Health Act, 1848, shall be incorporated with this Act:

(*a.*) See Note to Sec. 107 of the Towns Improvement Clauses Act, incorporated by Section 73 post, p. 103 as to the Laws relating to noxious or offensive trades, &c.

(*b.*) See the Nuisances Removal Acts, app. No. 3, especially Section 1 of the 1st Act. These Acts give additional powers for abating Nuisances.

So much of the Section numbered 55 of the said Act as relates to Byelaws with respect to the Removal of Refuse, and cleaning and emptying Waterclosets, Privies, and Cesspools: (Section 72.)

LV. And be it enacted, That the Local Board of Health (a) * * * Bye-laws for removal of Dust, &c.
 * * * may make Byelaws with respect to the Removal by the Occupier, or (in case of his Default) by the said Local Board of Dust, Ashes, Rubbish, Filth, Manure, Dung, and Soil collected, placed, or found in or about any House, Stable, Cow-house, Street, or Place whatsoever, and for preventing the Deposit thereof in or by the side of any Street, or so as to be a Nuisance to any Person, and with respect to the Times and Manner of cleansing and emptying Waterclosets, Privies, and Cesspools.

Also the Section numbered 56 of the said Act :

LVI. And be it enacted, That the Local Board of Health may, in their Discretion, provide, in proper and convenient Situations, Boxes or other Conveniences for the temporary Deposit and Collection of Dust, Ashes, and Rubbish, and also fit Buildings and Places for the Deposit of the Sewage, Soil, Dung, Filth, Ashes, Dust, and Rubbish collected by such Board ; and all Sewage, Soil, Dung, Filth, Ashes, Dust, and Rubbish so collected by the said Local Board, or in any Convenience provided as aforesaid, shall be vested in and be sold and disposed of by such Board, and the Proceeds thereof shall be carried to the District Fund Account hereinafter mentioned ; and whosoever, without the Consent of the said Local Board, collects or removes any Sewage, Soil, Dung, Filth, Ashes, Dust, or Rubbish belonging to them, shall for every such Offence be liable to a Penalty not exceeding Forty Shillings. Commissioners may provide Places for Deposit of Dust, Soil, &c.
Sale of Soil, &c.
Penalty for removal, &c.

Also the Section numbered 57 of the said Act :

LVII. And be it enacted, That the Local Board of Health may, if they think fit, provide and maintain, in proper and convenient Situations, Waterclosets, Privies, and other similar Conveniences for public Accommodation, and defray the necessary Expenses out of the District Rates to be levied under this Act. Public Necessaries.

Also the Section numbered 58 of the said Act :

LVIII. (b.) And be it enacted, That the Local Board of Health shall drain, cleanse, cover, or fill up, or cause to be drained, cleansed, covered, or filled up, all Ponds, Pools, open Ditches, Sewers, Drains, and Places containing or used for the Collection of any Offensive Ditches, Drains, &c. to be cleansed or covered, by Owners and Occupiers.

(a.) The remainder of this Section is incorporated by Section 52, ante, p. 68.

(b.) See the 6th and 7th Sections of the Nuisances Removal Act post app. No. 3 in connection with the directions of this Section, and Sec. 117 of the Public Health Act, (Sec. 56 ante p. 71) making the Commissioners execute the Office of Surveyor of the Highways.

(Section 72.)

In default by
Commissioners.

Expenses.

Drainage, Filth, Water, Matter, or Thing of an offensive Nature, or likely to be prejudicial to Health; and they shall cause written Notice to be given to the Person causing any such Nuisance, or to the Owner or Occupier of any Premises whereon the same exists, requiring him, within a Time to be specified in such Notice, to drain, cleanse, cover, or fill up any such Pond, Pool, Ditch, Sewer, Drain, or Place, or to construct a proper Sewer or Drain for the Discharge thereof, as the Case may require; and if the Person to whom such Notice is given fail to comply therewith, the said Local Board shall execute the Works mentioned or referred to therein, and the Expenses incurred by them in so doing shall be recoverable by them from him in a summary Manner, or by Order of the said Local Board shall be declared to be Private Improvement Expenses, and be recoverable as such in the Manner herein-after provided; Provided always, that the said Local Board may order that the whole or a Portion of the Expenses incurred in respect of any such last-mentioned Works be defrayed out of the Special or General District Rates to be levied under this Act, and in case of any such Order the whole or such Portion of the Expenses as may be mentioned therein shall be defrayed and levied accordingly.

Also the Section numbered 59 of the said Act :

Penalties for
keeping Swine,
&c. in improper
situations,
allowing waste
Water to remain
in cellars, pri-
vies, &c. to
overflow, &c.

Abatement of the
Nuisance by
Commissioners.

Removal of
Filth, on Cer-
tificate of In-
spector of Nui-
sances.

LIX. And be it enacted, That whosoever keeps any Swine or Pigstye in any Dwelling House, or so as to be a Nuisance (a.) to any Person, or suffers any waste or stagnant Water to remain in any Cellar or Place within any Dwelling House for Twenty-four Hours after written Notice to him from the Local Board of Health to remove the same, and whosoever allows the Contents of any Water-closet, Privy, or Cesspool to overflow or soak therefrom, shall for every such Offence be liable to a Penalty not exceeding Forty Shillings, and to a Further Penalty of Five Shillings for every Day during which the Offence is continued; and the said Local Board shall abate or cause to be abated every such Nuisance, and the Expenses incurred by them in so doing shall be repaid to them by the Occupier of the Premises upon which the same exists, and be recoverable from him in the summary Manner herein-after provided; and if at any Time it appear to the Inspector of Nuisances that any Accumulation of Manure, Dung, Soil, or Filth, or other offensive or noxious Matter whatsoever, ought to be removed, he shall give Notice to the Person to whom the same belongs, or to the Occupier of the Premises whereon it exists, to remove the same; and if at the Expiration of Twenty-four Hours after such Notice the same be not complied with, the Manure, Dung, Soil, or Filth,

[a] See note to Sec. 107 of the Towns Improvement Clauses Act, incorporated by Sec 73 post, p. 100.

PURIFYING HOUSES, REMOVING FILTH, NUISANCES, &c, 101

or Matter referred to, shall be vested in and be sold or disposed of by the said Local Board, and the Proceeds thereof shall be carried to the District Fund Account herein-after mentioned. (Secs. 72.73)

Also the Section numbered 60 of the said Act.

LX. (a.) And be it enacted, That if upon the Certificate of the Officer of Health (if any), or of any Two Medical Practitioners, it appear to the Local Board of Health that any House or Part thereof is in such a filthy or unwholesome Condition that the Health of any Person is affected or endangered thereby, or that the whitewashing, cleansing, or purifying of any House or Part thereof would tend to prevent or check infectious or contagious Disease, the said Local Board shall give Notice in Writing to the Owner or Occupier of such House or Part thereof to whitewash, cleanse, or purify the same, as the Case may require; and if the Person to whom Notice is so given fail to comply therewith within such Time as shall be specified in the said Notice, he shall be liable to a Penalty not exceeding Ten Shillings for every Day during which he continues to make default; and the said Local Board may, if they shall think fit, cause such House, Building, or Part thereof, to be whitewashed, cleansed, or purified, and the Expenses incurred by them in so doing shall be repaid by the Owner or Occupier in default, and be recoverable from either of them in the summary Manner herein-after provided.

Houses to be purified, on Certificate of Officer of Health, or of Two Medical Practitioners, by Owner or Occupier.

Penalty on default, &c.

Commissioners may purify, &c.

LXXIII. That the following Sections of "The Towns Improvement Clauses Act, 1847," shall be incorporated herewith:

Sections 98 & 104 to 107 of 10 & 11 Vict. c. 34. incorporated with this Act.

The Section numbered 98 of the said Act:

XCVIII. The Commissioners may from Time to Time fix the Hours within which only it shall be lawful to empty Privies or remove offensive Matter within the Limits of the special Act; and when the Commissioners have fixed such Hours, and given public Notice thereof, every Person who within the Limits of the special Act empties or begins to empty any Privy, or removes along any Thoroughfare within the said Limits any offensive Matter, at any Time except within the Hours so fixed, and also every Person who at any Time, whether such Hours have been fixed by the Commissioners or not, uses for any such Purpose any Cart or Carriage not having a Covering proper for preventing the Escape of the Contents of such Cart, or of the Stench thereof, or who wilfully slops or spills any such offensive Matter in the Removal thereof, or who does not carefully sweep and clean every Place in which any such offensive Matter has been placed, or unavoidably slopped

Penalty for conveying offensive Matter at improper Times, or in an improper way.

[a] See the Nuisances Removal Act, Section 1, post appendix No. 3, giving further remedies for purifying houses, &c.

(Section 73.)

or spilled, shall be liable to a Penalty not exceeding Forty Shillings, and in default of the Apprehension of the actual Offender the Driver or Person having the Care of the Cart or Carriage employed for any such Purpose shall be deemed to be the Offender.

The Section numbered 104 of the said Act :

Justices may order Nuisances to be abated, from offensive Trades, Places, &c.

CIV. If any Candle-house, Melting-house, Melting-place, or Soap-house, or any Slaughter-house, or any Building or Place for boiling Offal or Blood, or for boiling or crushing Bones, or any Pigstye, Necessary House, Dunghill, Manure Heap, or any Manufactory, Building, or Place of Business within the Limits of the special Act, be at any Time certified to the Commissioners by the Inspector of Nuisances or Officer of Health, or if for the Time being there be no Inspector of Nuisances or Officer of Health, by any Two Surgeons or Physicians, or One Surgeon and One Physician, to be a Nuisance (a.) or injurious to the Health of the Inhabitants, the Commissioners shall direct Complaint to be made before Two Justices; and any Justice may summon before any Two Justices the Person by or on whose Behalf the Work complained of is carried on, and such Justices shall inquire into such Complaint, and they may, by an Order in Writing under their Hands, order such Person to discontinue or remedy the Nuisance within such Time as to them shall appear expedient: Provided always, that if it appear to such Justices that in carrying on any Business complained of the best Means then known to be available for mitigating the Nuisance or the injurious Effects of such Business have not been adopted, they may suspend their final Determination, upon Condition that the Person so complained against shall undertake to adopt within a reasonable Time such Means as the said Justices shall judge to be practicable and order to be carried into effect for mitigating or preventing the injurious Effects of such Business.

Suspension of Justices' order in certain cases.

Appeal.

Also the Section numbered 105 of the said Act; and against the Order of Justices therein mentioned an Appeal shall lie to the Quarter Sessions, as herein-after provided: (b.)

Penalty for disobedience of Orders of Justices.

CV. If any such Nuisance, or the Cause of any such injurious Effects as aforesaid, be not discontinued or remedied within such Time as shall be ordered by the said Justices, the Person by or on whose Behalf the Business causing such Nuisance is carried on shall be liable to a Penalty not exceeding Five Pounds for every Day during which such Nuisance shall be continued or unremedied after the Expiration of such Time as aforesaid: Provided always, that when

Nuisance may be continued till after appeal.

[a.] See Note to Sec. 107 of the Towns Improvement Clauses Act, incorporated by this sec. 73, post, page 103.

[b] See the 135th section of the Public Health Act incorporated by section 129, post.

(Section 73.)

any Person who thinks himself aggrieved by any such Order shall, according to the Provisions of this or the special Act, appeal against any such Order, such Person shall not be liable to discontinue or remedy the Nuisance or Cause of the injurious Effects mentioned therein, or to pay any Penalty, until after the Expiration of Five Days after the Determination of such Appeal and the Confirmation of such Order, unless such Appeal cease to be prosecuted.

Also the Section numbered 106 of the said Act :

CVI. The Commissioners may direct any Prosecution for any public Nuisance whatsoever, created, permitted, or suffered within the Limits of the special Act, and may order Proceedings to be taken for the Recovery of any Penalties, and for the Punishment of any Persons offending against the Provisions of this or the special Act, or of any Act incorporated therewith, and may order the Expences of such Prosecution or other Proceedings to be paid out of the Rates authorized to be imposed under the Provisions of this and the special Act.

Commissioners to order Costs of Prosecutions to be paid out of the Rates.

Also the Section numbered 107 of the said Act.

CVII. Nothing in this Act contained shall be construed to render lawful any Act or Omission on the Part of any Person which is, or but for this Act would be, deemed to be a Nuisance at Common Law, nor to exempt any Person guilty of Nuisance at Common Law from Prosecution or Action in respect thereof, according to the Forms of Proceeding at Common Law, nor from the Consequences upon being convicted thereof. (a.)

Act not to affect Nuisances at Common Law.

[a.] It is questionable if this clause takes away the common law right, that a party injured by a nuisance, has to remove or abate himself the nuisance, so as he commits no riot in the doing of it, though it expressly saves other remedies. Statutes restrictive of the common law receive a restrictive construction. Remedies have been always provided for nuisances and noisome or offensive trades, but were often as trying as the disease; thus actions of trespass lie for erecting anything offensive so near the house of another as to render it useless and unfit for habitation. The erection of a tallow furnace near a common Inn is actionable. *Morley v. Pragnell*, Cro. Car. 510. *Bliss v. Hall*, 4 B. N. C. 183. So a lime kiln (*Aldred's case*, 9 Rep. 59). A smith's forge (*Bradley v. Gill*, Lutw. 69.) A pigstye (*Aldred's case supra*). A privy (*Jones v. Powell*, Hut. 136.) A tobacco mill, *Styan v. Hutchinson*, 3 Selw. N. P. 1114. And in *Walker v. Selfe*, 15 Jur. 416. V. C. Bruce decided in April, 1851, that brick-making was a private nuisance and granted an Injunction against making the bricks; and see *Rich v. Basterfield* as to nuisances from smoke issuing from shop stoves, 11 Jur. 696, and 3 Car. and K. 257, and from accumulations of compost and refuse, *Jones v. Williams*, 13 L. J. N. S. 340, Exch. Numerous are the causes respecting private nuisances shewing the law of England to be that every one should enjoy "fresh and pure air," the rule of law being "enjoy your own property so as not to injure that of another person." And as to noisome or offensive trades, filth, &c. becoming public nuisances the law is equally stringent. "The word noisome comes in the place of the Latin *nocivus* and means not only disagreeable but hurtful. It is not necessary to constitute the offence that the smell should be unwholesome, it is enough if it render the enjoyment of life and property uncomfortable. *R. v. White*, 1 Burr. 337 per *Ld. Mansfield*; and *C. J. Abbott* laid it down in *Rex. v. Neil*, 2 C. and P. 483, that "it is not necessary that a public nuisance should be injurious to health, if there be smells offensive to

*(Section 74.)*Construction of
Houses for Pre-
vention of Fire.Regulations as to
Party Walls,
External Walls,
Fire places, and
Roof Coverings.

Thatched Roofs.

Penalty for
neglect.Surveyor may
enter Buildings,
&c.

LXXIV. And with respect to the Construction of Houses for Prevention of Fire, be it enacted, That the Party Walls of all Buildings erected in the Borough after the passing of this Act shall be carried through and above the Roof to form a Parapet (properly coped with Stone or with such incombustible Materials as the Surveyor may approve) of not less than Twelve Inches in Height measured at Right Angles with the Slope of the Roof above the Covering of the Roof of the highest Building to which such Party Walls belong; and all such Party Walls and the External Walls of all Buildings erected after the passing of this Act within the Borough shall be constructed of incombustible Materials, and be of such Thickness, not less than Nine Inches and not more than Twenty-seven Inches, as the Commissioners shall direct, and the Covering of the Roof thereof shall not, without the previous Consent in Writing of the Commissioners or their Surveyor, be constructed of combustible Materials; and no Timber or Woodwork shall be placed in any Building within Four and a Half Inches of any Flue or Fireplace therein; and all Hearths, Slabs, and the Supports thereof, shall be of incombustible Materials; and it shall not be lawful for the Owner of any Building within the Borough, having at the passing of this Act a Roof covered with Thatch or other combustible Material, and adjoining to or near any other Building, to allow such Covering to such Roof to remain for a longer Period than Seven Years after the passing of this Act, unless with the Consent in Writing of the Commissioners Surveyor; and every Person who shall erect, rebuild, or alter any Building, or cover any Roof, or suffer the Covering of any Roof to continue, contrary to the Provisions herein contained, and who shall not remove or alter the same within One Month after Notice given to him for that Purpose by the Commissioners Surveyor, shall be liable to a Penalty not exceeding One Pound for every Day that such Building or Covering to such Roof shall so continue; and it shall be lawful for the Commissioners Surveyor to enter into or upon any House or other Building within the Borough during the building, re-building, or Alteration thereof, after the passing of this Act, and to view

the senses that is enough, as the neighbourhood has a right to "fresh and pure air." Burps says that it hath been holden that it is no common nuisance to make candles in a town, because the needfulness of them shall dispense with the noisomeness of the smell, but this opinion, the same learned author says, seems justly to be questionable, and see the case of *Morely v. Pragnell* supra. Several cases have established that no length of time will legitimate a public nuisance, but the rule has often been modified, and it has been held that the continuing a noxious trade which has been carried on at the same place for nearly fifty years will not be deemed a nuisance. As regards remedies against private nuisances 20 years continuance seems a bar.

and inspect the same or any Part thereof; and if it shall appear to the said Surveyor that there is any Work or Materials in the external or party Walls or main Timbers or Roofs thereof, used in the building, rebuilding, or Alteration thereof, contrary to the Meaning of this Provision, the Owner of such House or other Building who shall not take down such Work or Materials within One Week after Notice given to him for that Purpose by the Commissioners Surveyor shall be liable to a Penalty not exceeding One Pound for every Day that such Work or Materials shall remain contrary to the Provisions herein contained.

(Secs. 74. 75)
Alteration of
Building, &c.
if necessary.

Penalty for
neglect of Sur-
veyor's Notice.

And with respect to Cellar Dwellings, be it enacted,

CellarDwellings.

LXXV. That the Section numbered 67 of "The Public Health Act, 1848," shall be incorporated with this Act; but the Commissioners shall give Notice of that Provision, instead of the Churchwardens and Overseers of the Poor.

Section 67 of 11
and 12 Vict. c.
68. incorporated
with this Act.
Notice of this
Clause by
Commissioners.

LXVII. And be it enacted, That it shall not be lawful to let or occupy or suffer to be occupied separately as a Dwelling any Vault, Cellar, or underground Room built or rebuilt after the passing of this Act, or which shall not have been so let or occupied before the passing of this Act; and it shall not be lawful to let or continue to let, or to occupy or suffer to be occupied, separately as a Dwelling, any Vault, Cellar, or underground Room whatsoever, unless the same be in every Part thereof at least Seven Feet in Height, measured from the Floor to the Ceiling thereof, nor unless the same be at least Three Feet of its Height above the Surface of the Street or Ground adjoining or nearest to the same, nor unless there be outside of and adjoining the same Vault, Cellar, or Room, and extending along the entire Frontage thereof, and upwards from Six Inches below the Level of the Floor thereof up to the Surface of the said Street or Ground, an open Area of at least Two Feet and Six Inches wide in every Part, nor unless the same be well and effectually drained by means of a Drain the uppermost Part of which is One Foot at least below the Level of the Floor of such Vault, Cellar, or Room, nor unless there be appurtenant to such Vault, Cellar, or Room the Use of a Watercloset or Privy and an Ashpit, furnished with proper Doors and Coverings kept and provided according to the Provisions of this Act, nor unless the same have a Fireplace with a proper Chimney or Flue, nor unless the same have an external Window of at least Nine Superficial Feet in Area clear of the Sash Frame, and made to open in such Manner as shall be approved by the Surveyor, except in the Case of an inner or back Vault, Cellar, or Room let or occupied along with a front Vault, Cellar, or Room as Part of the same Letting or Occupation, in which Case the external Window may

Cellars, &c.
newly built not
to be let as
Dwelling Rooms.

No Cellars, &c.
to be let except
under certain
Conditions, as to
height, light,
fire-place, venti-
lation, area,
steps, drains,
privies, ash-pits,
&c.

(Secs. 75 76.)

Penalty for neglect, &c.

Area steps, &c.

Meaning of occupied as a Dwelling.

Act not to come into operation until the Expiration of a certain Time, in case of Cellars, &c. already occupied as Dwellings.

Churchwardens, &c. to give Notice of Enactment.

Fires and Smoke.

Sections 30 to 33 of 10 and 11 Vic. c. 89. Incorporated with this Act.

Penalty for setting Chimneys wilfully on fire.

be of any Dimensions, not being less than Four Superficial Feet in Area clear of the Sash Frame ; and whosoever lets, occupies, or continues to let, or knowingly suffers to be occupied, for Hire or Rent, any Vault, Cellar, or underground Room, contrary to this Act, shall be liable for every such Offence to a Penalty not exceeding Twenty Shillings for every Day during which the same continues to be so let or occupied after Notice in Writing from the Local Board of Health in this Behalf : Provided always, that in any Area adjoining a Vault, Cellar, or underground Room there may be Steps necessary for Access to such Vault, Cellar, or Room, if the same be so placed as not to be over, across, or opposite to the said external Window, and so as to allow between every Part of such Steps and the external Wall of such Vault, Cellar, or Room a clear Space of Six Inches at the least, and that over or across any such Area there may be Steps necessary for Access to any Building above the Vault, Cellar, or Room to which such Area adjoins, if the same be so placed as not to be over, across, or opposite to any such external Window : Provided also, that every Vault, Cellar, or underground Room in which any Person passes the Night shall be deemed to be occupied as a Dwelling within the Meaning of this Act : Provided also, that the Provisions of this Act with respect to the Letting and Occupation of Vaults, Cellars, and underground Rooms shall not, so far as the same relate to Vaults, Cellars, and underground Rooms which shall have been let or occupied as Dwellings before the passing of this Act, come into force or operation until the Expiration of One Year from the passing of this Act, nor within any District until the Expiration of Six Months from the Time when this Act shall have been applied thereto ; and all Churchwardens and Overseers of the Poor shall from Time to Time after the passing of this Act cause public Notice of the Provisions of this Act with respect to the Letting and Occupation of Vaults, Cellars, and underground Rooms to be given in such Manner as may appear to them to be best calculated to make the same generally known.

And with respect to Fires, and the Prevention of Smoke, be it enacted,

LXXXVI. That the following Sections of "The Town Police Clauses Act, 1847," shall be incorporated with this Act :

The Section numbered 30 of the said Act :

XXX. Every Person who wilfully sets or causes to be set on fire any Chimney within the Limits of the special Act shall be liable to a Penalty not exceeding Five Pounds : Provided always, that nothing herein contained shall exempt the Person so setting or causing to be set on fire any Chimney from Liability to be indicted for Felony.

Also the Section numbered 31 of the said Act :

(Section 76.)

XXXI. If any Chimney accidentally catch or be on fire within the said Limits the Person occupying or using the Premises in which such Chimney is situated shall be liable to a Penalty not exceeding Ten Shillings : Provided always, that such Forfeiture shall not be incurred if such Person prove to the Satisfaction of the Justice before whom the Case is heard that such Fire was in no-wise owing to Omission, Neglect, or Carelessness of himself or Servant.

Penalty for accidentally allowing Chimneys to catch fire.

Also the Section numbered 32 of the said Act :

XXXII. The Commissioners may purchase or provide such Engines for extinguishing Fire, and such Water Buckets, Pipes, and other Appurtenances for such Engines, and such Fire Escapes and other Implements for Safety or Use in case of Fire, and may purchase, keep, or hire such Horses for drawing such Engines as they think fit, and may build, provide, or hire Places for keeping such Engines with their Appurtenances, and may employ a proper Number of Persons to act as Firemen, and may make such Rules for their Regulation as they think proper, and give such Firemen and other Persons such Salaries and such Rewards for their Exertions in Cases of Fire, as they think fit.

Fire Engines and Firemen may be provided by the Commissioners.

Also the Section numbered 33 of the said Act.

XXXIII. The Commissioners may send such Engines, with their Appurtenances, and the said Firemen, beyond the Limits of the special Act, for extinguishing Fire in the Neighbourhood of the said Limits ; and the Owner of the Lands or Buildings where such Fire shall have happened shall in such Case defray the actual Expence which may be thereby incurred, and shall also pay to the Commissioners a reasonable Charge for the Use of such Engines with their Appurtenances, and for the Attendance of such Firemen ; and in case of any Difference between the Commissioners and the Owner of the said Lands or Buildings, the Amount of the said Expenses and Charge, as well as the Propriety of sending the said Engines and Firemen as aforesaid for extinguishing such Fire, (if the Propriety thereof be disputed,) shall be determined by Two Justices, whose Decision shall be final ; and the Amount of the said Expenses and Charge shall be recovered by the Commissioners as Damages. (a.)

Fire Police permitted to go beyond the Limits of the Act in certain Cases.

Expenses thereof.

(a) See note to Section 129 of the Public Health Act, section 127, as to the recovery of these Damages, and see the mode of proceeding before Justices, section 131 of the Public Health Act, incorporated by section 127 post.

(Secs. 77, 78)
Sect. 108. of 10 &
11 Vict. c. 34.
incorporated
with this Act;

LXXVII. That the Section numbered 108 of "The Towns Improvement Clauses Act, 1847," shall be incorporated with this Act.

Fireplaces of
Factories, &c. to
consume their
own Smoke.

CVIII. Every Fireplace (a.) or Furnace constructed after the passing of the special Act, in order to be used within the Limits of such Act in the working of Engines by Steam, or in any Mill, Factory, Dyehouse, Brewery, Bakehouse, Gaswork, or in any Manufactory whatsoever, (although a Steam Engine be not used or employed therein,) shall be so constructed as to consume the Smoke arising from the Combustibles used in such Fireplace or Furnace; and every such Fireplace or Furnace existing within the said Limits at the Date of the passing of the special Act, used for the Purposes aforesaid, not so constructed as to consume the Smoke arising from such Fireplace or Furnace, shall within the prescribed Period, or if no Period be prescribed, then within Two Years after the passing of the special Act, be so altered in its Construction as to consume such Smoke; and if after such Period any Person use for any of the Purposes aforesaid any Fireplace or Furnace not so constructed as aforesaid, or if at any Time any Person use any such Fireplace or Furnace constructed after the passing of the special Act, and not so constructed as aforesaid, or so negligently use any such Fireplace or Furnace as not to consume the Smoke arising from the Combustibles used therein, every Person so offending shall be liable to a Penalty of Forty Shillings for every Day during any Part of which such Furnace or Fireplace shall be so used and continued after One Month's Notice in Writing shall have been given to the Owner or Occupier of such Furnace or Fireplace by the Commissioners to remedy or discontinue the Use of the same.

Penalty.

Ventilation.

And with respect to supplying Buildings with fresh Air, be it enacted,

Also Sections
110, 111, 112, and
86 of the same
Act.

LXXVIII. That the following Sections of "The Towns Improvement Clauses Act, 1847," shall be incorporated with this Act:

The Section numbered 110 of the said Act:

[a.] It has been suggested that this clause ought to have extended to every private Dwelling, as from the multitude of these more smoke arises in every town befouling the atmosphere, than there does from a few manufactories, and as the principle of smoke consumption or prevention is quite as applicable to small as to large fires. If such a Law could be carried out, its effects would be most beneficial; all the purity and benefits arising from the use of domestic fires could be obtained without the disagreeable and no doubt unwholesome effects of the smoke. Mr Smith in his work on sanitary legislation, writes that he has applied the smoke consumption principle in his house for more than ten years, and can safely say that the cleanliness and comfort arising from a total freedom from smoke and dust, and the saving of annoyance as well as expense, in never needing to have a chimney swept, are far more than sufficient to counterbalance any additional outlay in the apparatus necessary. "During those ten years" the author writes "the chimney sweeper has not once been in the house."

CX. Before beginning to build any Building intended to be used as a Church, Chapel, or School, or a Place of public Amusement or Entertainment, or for holding large Numbers of People for any Purpose whatsoever, within the Limits of the special Act, the Person intending to build the same shall give Fourteen Days Notice in Writing to the Commissioners, and shall accompany such Notice with a Plan and Description of the Manner proposed for its Construction, with respect to the Means of supplying fresh Air to such Building; and no Person shall begin to build such Building until the Manner proposed for its Construction, with respect to the Means for supplying fresh Air, have been approved of by the Commissioners; and in default of sending such Notice, or if any such Building be erected without such Approval, the Commissioners may cause such Building, or such Part of it as they consider necessary, to be pulled down or altered, at the Expence of the Owner, and any Expence incurred by the Commissioners in so doing may be recovered as herein-before provided with respect to ruinous or dangerous Buildings taken down or repaired by the Commissioners. (a.)

(Section 78.)
Regulating Construction of Buildings intended as Places for Public Meetings.

No Person to begin to build until Plan has been approved by Commissioners.

Also the Section numbered 111 of the said Act :

CXI. Provided always, That if the Commissioners fail to signify in Writing their Approval or Disapproval of the Manner of Construction of such Building, with respect to the Means of supplying fresh Air shown on such Plan and Description as aforesaid, within Fourteen Days after receiving such Notice, accompanied by such Plan and Description, the Person giving such Notice may, notwithstanding any thing herein contained, proceed to build the Building therein referred to in the Manner shown on such Plan and Description; provided that such Building be otherwise in accordance with the Provisions of this and the special Act.

If Commissioners fail to signify their Approval of Plan within Fourteen Days, Party may proceed to build.

Also the Section numbered 112 of the said Act :

CXII. Provided also, That if the Person so intending to build be dissatisfied with the Determination of the Commissioners as to the said proposed Manner of Construction, he shall have the same Right of Appeal against the Determination of the Commissioners, and such Appeal shall be followed by the same Incidents, as herein-before provided in the Case of Appeals against any Order of the Commissioners with respect to Works to be constructed by or subject to the Approval of the Commissioners. (b.)

Persons may appeal against Determination of Commissioners.

[a] The 4 Sections of the Towns Improvement Clauses Act, containing these Provisions, are incorporated by Sect. 66 ante p. 85-6.

[b.] This refers to the 86th Sec. of the Towns Improvement Clauses Act, next incorporated. The word "herein-before" in this Section must be read "herein" or "hereinafter" to give any meaning to this Section, as the Section giving the Appeal is incorporated after. The Learned Coun-

(Secs. 78 79)

Also the Section numbered 86 of the said Act.

Persons ag-
grieved by Or-
der of Commis-
sioners may
appeal to Quar-
ter Sessions,

Notice, &c.

Recognizances,
&c.

Proceedings on
trial.

LXXXVI. Any Person liable to pay or to contribute towards the Expence of any of the Works aforesaid, or otherwise aggrieved by any Order of the Commissioners relating thereto, may, at any Time within Seven Days next after the making of any such Order, give Notice in Writing to the Commissioners that he intends to appeal against such Order to the Court of Quarter Sessions holden next after the Expiration of Ten Days next after such Notice, and along with such Notice he shall give a Statement in Writing of the Grounds of the Appeal; and if within Four Days next after giving such Notice the Party enter into a Recognizance before some Justice, with Two sufficient Sureties, conditioned to try the Appeal, and abide the Order of the Court, and pay such Costs as shall be awarded by the Court thereupon, the Work so appealed against shall not be begun until after the Judgment of the Court upon such Appeal; and such Court, upon due Proof of such Notice and of such Recognizance having been given and entered into, shall hear and determine the Matter of the Appeal, and shall make such Order thereon, either confirming, quashing, or varying the same, and shall award such Costs to either of the Parties, as the Court in its Discretion thinks fit: Provided always, that the Appellant shall not be heard in support of such Appeal unless such Notice and Statement have been given and such Recognizance entered into as aforesaid, nor on the hearing of such Appeal shall he go into Evidence of any other Grounds of Appeal than those set forth in such Statement as aforesaid.

Hackney
Carriages.

And with respect to Hackney Carriages, be it enacted,

Sections 37, 38,
40 to 45, and 50
to 68 of 19 and
11 Vict. c. 89. in-
corporated with
this Act.

LXXIX. That the following Sections of "The Town Police Clauses Act, 1847," shall be incorporated with this Act:

Meaning of
Terms.

Bye-laws for
Distances.

The Sections numbered 37 and 38 of the said Act; and the Term "Hackney Carriages," used in this Act, shall be extended to include hired Sedan Chairs, Wheel Chairs, Fly Chairs drawn by Men, and other such like Conveyances used for Hire (herein-after called Hired Chairs), and the Word "Driver" shall include "Chairman," and the Word "drive" shall include "draw," unless the Context be repugnant to such Construction; and the Distances within which Hackney Carriages and Hired Chairs shall

sel who drew this Act, in his Work on "Law Composition," refers to a Case in which the word "herein-after" was refused by the Court of Queen's Bench to be read "herein-before" but that was on a condition of a penal nature in a *Lease Doe d. Spencer, v. Goodwin* 4 Maule and Selwyn 265. In a Will the same learned Author says the mistake would be corrected. *Bengough v. Edridge* 1 Sim. Rep. 173 "herein-after" construed "herein." As the Section in the text is remedial, doubtless it would be read herein or hereinafter, if not it would be difficult to include in the words "the works aforesaid" in the 86th section the Building mentioned in the 110th section.

be bound to go shall be fixed from Time to Time by a Byelaw or Order of the Commissioners, not exceeding, for a Hackney Carriage, Ten Miles from the Borough, and for a Hired Chair Two Miles therefrom, measuring by the nearest appropriate Means of Access : (Section 79.)

XXXVII. The Commissioners may from Time to Time license to ply for Hire within the prescribed Distance, or if no Distance is prescribed, within Five Miles from the General Post Office of the City, Town, or Place to which the special Act refers, (which in that Case shall be deemed the prescribed Distance,) such Number of Hackney Coaches or Carriages of any Kind or Description adapted to the Carriage of Persons as they think fit. Hackney Carriages to be licensed.

XXXVIII. Every wheeled Carriage, whatever may be its Form or Construction, used in standing or plying for Hire in any Street within the prescribed Distance, and every Carriage standing upon any Street within the prescribed Distance, having thereon any numbered Plate required by this or the special Act to be fixed upon a Hackney Carriage, or having thereon any Plate resembling or intended to resemble any such Plate as aforesaid, shall be deemed to be a Hackney Carriage within the Meaning of this Act ; and in all Proceedings at Law or otherwise the Term " Hackney Carriage" shall be sufficient to describe any such Carriage : Provided always, that no Stage Coach used for the Purpose of standing or plying for Passengers to be carried for Hire at separate Fares, and duly licensed for that Purpose, and having thereon the proper numbered Plates required by Law to be placed on such Stage Coaches, shall be deemed to be a Hackney Carriage within the Meaning of this Act. What to be Hackney Carriages.
Stage Coach not to be.

Also the Section numbered 40 of the said Act :

XL. Before any such Licence is granted a Requisition for the same, in such Form as the Commissioners from Time to Time provide for that Purpose, shall be made and signed by the Proprietor or One of the Proprietors of the Hackney Carriage in respect of which such Licence is applied for, and in every such Requisition shall be truly stated the Name and Surname and Place of Abode of the Person applying for such Licence, and of every Proprietor or part Proprietor of such Carriage, or Person concerned, either solely or in partnership with any other Person, in the keeping, employing, or letting to Hire of such Carriage ; and any Person who, on applying for such Licence, states in such Requisition the Name of any Person who is not a Proprietor or part Proprietor of such Carriage, or who is not concerned as aforesaid in the keeping, employing, or letting to Hire of such Carriage, and also any Person Persons applying for Licence to sign a Requisition for same.
False Statements &c. in Requisitions.

(Section 79.)

who wilfully omits to specify truly in such Requisition as aforesaid the Name of any Person who is a Proprietor or part Proprietor of such Carriage, or who is concerned as aforesaid in the keeping, employing, or letting to Hire of such Carriage, shall be liable to a Penalty not exceeding Ten Pounds.

Licence to express names, abode, &c.

Also the Section numbered 41 of the said Act ; and the Licence shall express the Name and Place of Abode of the Driver as well as the Proprietor of a Hackney Carriage :

What shall be specified in the Licences.

XLI. In every such Licence shall be specified the Name and Surname and Place of Abode of every Person who is a Proprietor or part Proprietor of the Hackney Carriage in respect of which such Licence is granted, or who is concerned, either solely or in Partnership with any other Person, in the keeping, employing, or letting to Hire of any such Carriage, and also the Number of such Licence which shall correspond with the Number to be painted or marked on the Plates to be fixed on such Carriage, together with such other Particulars as the Commissioners think fit.

Number painted on Carriages, &c.

Also the Section numbered 42 of the said Act :

Licences to be registered.

XLII. Every Licence shall be made out by the Clerk of the Commissioners, and duly entered in a Book to be provided by him for that Purpose, and in such Book shall be contained Columns or Places for Entries to be made of every Offence committed by any Proprietor or Driver or Person attending such Carriage, and any Person may at any reasonable Time inspect such Book without Fee or Reward.

Complaints entered in registry.

Inspection.

Also the Section numbered 43 of the said Act :

Licence to be in force for One Year only.

XLIII. Every Licence so to be granted shall be under the Common Seal of the Commissioners, if incorporated, or if not incorporated, shall be signed by Two or more of the Commissioners, and shall not include more than One Carriage so licensed, and shall be in force for One Year only from the Day of the Date of such Licence, or until the next general licensing Meeting, in case any general licensing Day be appointed by the Commissioners.

Also the Section numbered 44 of the said Act ; and the Proprietor shall also give Notice of the Change of Abode of the Driver of a Hackney Carriage within Seven Days after such Change, and in case of his wilful Omission so to do he shall be liable to the Penalty therein mentioned :

Notice to be given by Proprietors of

XLIV. So often as any Person named in any such Licence as the Proprietor or One of the Proprietors, or as being concerned either

solely or in Partnership with any Person in the keeping, employ-^(Section 79)
 ing, or letting to Hire of any such Carriage, changes his Place of Hackney Car-
 Abode, he shall, within Seven Days next after such Change, give riages of any
 Notice thereof in Writing, signed by him, to the Commissioners, Change of Abode.
 specifying in such Notice his new Place of Abode; and he shall
 at the same Time produce such Licence at the Office of the Com-
 missioners, who shall, by their Clerk, or some other Officer, endorse
 thereon and sign a Memorandum specifying the Particulars of
 such Change; and any Person named in any such Licence as
 aforesaid as the Proprietor, or One of the Proprietors, of any
 Hackney Carriage, or as being concerned as aforesaid, who changes
 his Place of Abode, and neglects or wilfully omits to give Notice
 of such Change, or to produce such Licence in order that such
 Memorandum as aforesaid may be endorsed thereon within the
 Time and in the Manner limited and directed by this or the special
 Act, shall be liable to a Penalty not exceeding Forty Shillings. ^{Penalty for neglect.}

Also the Section numbered 45 of the said Act; and the Penalty ^{Strangers}
 therein contained shall extend to any Proprietor permitting a driving.
 Hackney Carriage to be driven or attended by any other than
 the Person named in the Licence as the Driver thereof, except in
 case of his Illness, or Absence from some unavoidable Cause:

XLV. If the Proprietor or part Proprietor of any Carriage, or any ^{Penalty for}
 Person so concerned as aforesaid, permits the same to be used as a plying for Hire
 Hackney Carriage plying for Hire within the prescribed Distance without a Li-
 cence.
 without having obtained a Licence as aforesaid for such Carriage,
 or during the Time that such Licence is suspended as herein-after
 provided, or if any Person be found driving, standing, or plying
 for Hire with any Carriage within the prescribed Distance, for
 which such Licence as aforesaid has not been previously obtained,
 or without having the Number of such Carriage corresponding
 with the Number of the Licence openly displayed on such Carriage,
 every such Person so offending shall for every such Offence be
 liable to a Penalty not exceeding Forty Shillings.

Also the Section numbered 50 of the said Act; but it shall not ^{Licence for}
 be necessary to obtain a Licence for any Driver of a Hackney Drivers not
 Carriage: ^{required.}

L. The Commissioners may, upon the Conviction for the Second ^{Licences to be}
 Time of the Proprietor or Driver of any such Hackney Carriage suspended or
 for any Offence under the Provisions of this or the special Act revoked for
 with respect to Hackney Carriages, or any Bye Law made in pur- ^{Misconduct.}
 suance thereof, suspend or revoke, as they deem right, the Licence
 of any such Proprietor or Driver.

(Section 79.)
Section 51 not
to apply to
Chairs.

Also the Section numbered 51 of the said Act ; but the said Section shall not extend to Hired Chairs :

Number of
Persons to be
carried in a
Hackney Car-
riage to be
painted thereon.

LI. No Hackney Carriage shall be used or employed or let to Hire, or shall stand or ply for Hire within the prescribed Distance, unless the Number of Persons to be carried by such Hackney Carriage, in Words at Length, and in Form following, (that is to say,) "To carry Persons," be painted on a Plate placed on some conspicuous Place on the Outside of such Carriage, and in legible Letters, so as to be clearly distinguishable from the Colour of the Ground whereon the same are painted, One Inch in Length, and of a proportionate Breadth ; and the Driver of any such Hackney Carriage shall not be required to carry in or by such Hackney Carriage a greater Number of Persons than the Number painted thereon.

Section 53 not
to apply to
Chairs.

Also the Section numbered 52 of the said Act ; but the said Section shall not extend to Hired Chairs :

Penalty for
Neglect or for
Refusal to carry
the prescribed
Number.

LII. If the Proprietor of any Hackney Carriage permit the same to be used, employed, or let to Hire, or if any Person stand or ply for Hire with such Carriage, without having the Number of Persons to be carried thereby painted and exhibited in manner aforesaid, or if the Driver of any such Hackney Carriage refuse, when required by the Hirer thereof, to carry in or by such Hackney Carriage the Number of Persons painted thereon, or any less Number, every Proprietor or Driver so offending shall be liable to a Penalty not exceeding Forty Shillings.

Also the Section numbered 53 of the said Act :

Penalty on
Driver for re-
fusing to drive.

LIII. Any Driver of a Hackney Carriage standing at any of the Stands for Hackney Carriages appointed by the Commissioners, or in any Street, who refuses or neglects, without reasonable Excuse, to drive such Carriage to any Place within the prescribed Distance, or the Distance to be appointed by any Bye Law of the Commissioners, not exceeding the prescribed Distance, to which he is directed to drive by the Person hiring or wishing to hire such Carriage, shall for every such Offence be liable to a Penalty not exceeding Forty Shillings.

Also the Section numbered 54 of the said Act :

Penalty for de-
manding more
than the Sum
agreed for,
though less than
the legal Fare.

LIV. If the Proprietor or Driver of any such Hackney Carriage, or if any other Person on his Behalf, agree beforehand with any Person hiring such Hackney Carriage to take for any Job a Sum less than the Fare allowed by this or the special Act, or any Bye Law made thereunder, such Proprietor or Driver shall be liable to

a Penalty not exceeding Forty Shillings if he exact or demand for such Job more than the Fare so agreed upon. *(Section 79.)*

Also the Section numbered 55 of the said Act :

LV. No Agreement whatever made with the Driver, or with any Person having or pretending to have the Care of any such Hackney Carriage for the Payment of more than the Fare allowed by any Bye Law made under this or the special Act, shall be binding on the Person making the same, and any such Person may, notwithstanding such Agreement, refuse, on discharging such Hackney Carriage, to pay any Sum beyond the Fare allowed as aforesaid, and if any Person actually pay to the Driver of any such Hackney Carriage, whether in pursuance of any such Agreement or otherwise, any Sum exceeding the Fare to which such Driver was entitled, the Person paying the same shall be entitled, on Complaint made against such Driver before any Justice of the Peace, to recover back the Sum paid beyond the proper Fare, and moreover such Driver shall be liable to a Penalty for such Exaction not exceeding the Sum of Forty Shillings, and in default of the Repayment by such Driver of such Excess of Fare, or of Payment of the said Penalty, such Justice shall forthwith commit such Driver to Prison, there to remain for any Time not exceeding One Month, unless the said Excess of Fare and the said Penalty be sooner paid.

Also the Section numbered 56 of the said Act :

LV. If the Proprietor or Driver of any such Hackney Carriage, or if any other Person on his Behalf, agree with any Person to carry in or by such Hackney Carriage Persons not exceeding in Number the Number so painted on such Carriage as aforesaid, for a Distance to be in the Discretion of such Proprietor or Driver, and for a Sum agreed upon, such Proprietor or Driver shall be liable to a Penalty not exceeding Forty Shillings if the Distance which he carries such Persons be under that to which they were entitled to be carried for the Sum so agreed upon according to the Fare allowed by this or the special Act, or any Bye Law made in pursuance thereof.

Also the Section numbered 57 of the said Act :

LVII. When any Hackney Carriage is hired and taken to any Place, and the Driver thereof is required by the Hirer there to wait with such Hackney Carriage, such Driver may demand and receive from such Hirer his Fare for driving to such Place, and also a Sum equal to the Fare of such Carriage for the Period, as a Deposit over and above such Fare, during which he is required to wait as

(Section 79.)

Penalty on the Driver refusing to wait, or to account for the Deposit.

aforesaid, or if no Fare for Time be fixed by the Bye Laws, then the Sum of One Shilling and Sixpence for every Half Hour during which he is so required to wait, which Deposit shall be accounted for by such Driver when such Hackney Carriage is finally discharged by such Hirer; and if any such Driver who has received any such Deposit as aforesaid refuses to wait as aforesaid, or goes away or permits such Hackney Carriage to be driven or taken away without the Consent of such Hirer, before the Expiration of the Time for which such Deposit was made; or if such Driver on the final Discharge of such Hackney Carriage refuse duly to account for such Deposit, every such Driver so offending shall be liable to a Penalty not exceeding Forty Shillings.

Also the Section numbered 58 of the said Act :

Overcharge by Hackney Coachmen, &c. to be included in Conviction, and returned to aggrieved Party.

LVIII. Every Proprietor or Driver of any such Hackney Carriage who is convicted of taking as a Fare a greater Sum than is authorized by any Bye Law made under this or the special Act shall be liable to a Penalty not exceeding Forty Shillings, and such Penalty may be recovered before One Justice; and in the Conviction of such Proprietor or Driver an Order may be included for Payment of the Sum so overcharged, over and above the Penalty and Costs; and such Overcharge (*a.*) shall be returned to the Party aggrieved, whose Evidence shall be admissible in Proof of the said Offence.

Also the Section numbered 59 of the said Act :

Penalty for permitting Persons to ride without Consent of the Hirer.

LIX. Any Proprietor or Driver of any such Hackney Carriage which is hired who permits or suffers any Person to be carried in or upon or about such Hackney Carriage during such Hire, without the express Consent of the Person hiring the same, shall be liable to a Penalty not exceeding Twenty Shillings.

Also the Section numbered 60 of the said Act :

No Person to act as Driver of any Carriage without the Consent of the Proprietor.

LX. No Person authorized by the Proprietor of any Hackney Carriage to act as Driver of such Carriage shall suffer any other Person to act as Driver of such Carriage without the Consent of the Proprietor thereof, and no Person, whether licensed or not, shall act as Driver of any such Carriage without the Consent of the Proprietor, and any Person so suffering another Person to act as Driver, and any Person so acting as Driver without such Consent as aforesaid, shall be liable to a Penalty not exceeding Forty Shillings for every such Offence.

Also the Section numbered 61 of the said Act :

Penalty on Drivers misbehaving.

LXI. If the Driver or any other Person having or pretending to have the Care of any such Hackney Carriage be intoxicated while dri-

(a.) See Section 82 post. p. 120.

(Section 79.)

ving, or if any such Driver or other Person by wanton and furious driving, or by any other wilful Misconduct, injure or endanger any Person in his Life, Limbs, or Property, he shall be liable to a Penalty not exceeding Five Pounds, and in default of Payment thereof the Justice before whom he is convicted of such Offence may commit him to Prison, there to remain for any Time not exceeding Two Months.

Also the Section numbered 62 of the said Act :

LXII. If the Driver of any such Hackney Carriage leave it in any Street or at any Place of public Resort or Entertainment, whether it be hired or not, without some one proper to take care of it, any Constable may drive away such Hackney Carriage, and deposit it, and the Horse or Horses harnessed thereto, at some neighbouring Livery Stable or other Place of safe Custody ; and such Driver shall be liable to a Penalty not exceeding Twenty Shillings for such Offence, and in default of Payment of the said Penalty upon Conviction, and of the Expences of taking and keeping the said Hackney Carriage and Horse or Horses, the same, together with the Harness belonging thereto, or any of them, shall be sold by Order of the Justice before whom such Conviction is made, and after deducting from the Produce of such Sale the Amount of the said Penalty, and of all Costs and Expences, as well of the Proceedings before such Justice as of the taking, keeping, and Sale of the said Hackney Carriage, and of the said Horse or Horses and Harness, the Surplus (if any) of the said Produce shall be paid to the Proprietor of such Hackney Carriage.

Penalty for leaving Carriages unattended at Places of public Resort.

Carriage and Horses may be sold for Penalty and Expences.

Also the Section numbered 63 of the said Act :

LXIII. In every Case in which any Hurt or Damage has been caused to any Person or Property as aforesaid by the Driver of any Carriage let to Hire, the Justice before whom such Driver has been convicted may direct that the Proprietor of such Carriage shall pay such a Sum not exceeding Five Pounds as appears to the Justice a reasonable Compensation for such Hurt or Damage ; and every Proprietor who pays any such Compensation as aforesaid may recover the same from the Driver, and such Compensation shall be recoverable from such Proprietor, and by him from such Driver, as Damages. (a.)

Damage done by Driver may be recovered from the Proprietor.

Also the Section numbered 64 of the said Act :

LXIV. Any Driver of any Hackney Carriage who suffers the same to stand for Hire across any Street or alongside of any other Hack-

Improperly standing with Carriage ; re-

(a.) See Note to Section 129 of the Public Health Act, post sec. 127, as to the recovery of these Damages.

(Section 79.)

fusing to give way to, or obstructing any other Driver; or depriving him of his Fare.

ney Carriage, or who refuses to give way, if he conveniently can, to any other Carriage, or who obstructs or hinders the Driver of any other Carriage in taking up or setting down any Person into or from such other Carriage, or who wrongfully in a forcible Manner prevents or endeavours to prevent the Driver of any other Hackney Carriage from being hired, shall be liable to a Penalty not exceeding Twenty Shillings.

Also the Section numbered 65 of the said Act:

Justices empowered to award Compensation to Drivers for loss of Time in attending to answer Complaints not substantiated.

LXV. If the Driver of any such Hackney Carriage be summoned or brought before any Justice to answer any Complaint or Information touching or concerning any Offence alleged to have been committed by such Driver against the Provisions of this or the special Act, or any Bye Law made thereunder, and such Complaint or Information be afterwards withdrawn or quashed or dismissed, or if such Driver be acquitted of the Offence charged against him, the said Justice, if he think fit, may order the Complainant or Informant to pay to the said Driver such Compensation for his Loss of Time in attending the said Justice touching or concerning such Complaint or Information as to the said Justice seems reasonable, and in default of Payment of such Compensation, the said Justice may commit such Complainant or Informant to Prison for any Time not exceeding One Month, unless the same shall be sooner paid.

Also the Section numbered 66 of the said Act :

Penalty for refusing to pay the Fare.

LXVI. If any Person refuse to pay on Demand to any Proprietor or Driver of any Hackney Carriage the Fare allowed by this or the special Act, or any Bye Law made thereunder, such Fare may, together with Costs, be recovered before One Justice as a Penalty.

Also the Section numbered 67 of the said Act :

Penalty for damaging Carriage.

LXVII. Any Person using any Hackney Carriage plying under a Licence granted by virtue of this or the special Act, who wilfully injures the same, shall for every such Offence be liable to a Penalty not exceeding Five Pounds, and shall also pay to the Proprietor of such Hackney Carriage reasonable Satisfaction for the Damage sustained by the same; and such Satisfaction shall be ascertained by the Justices before whom the Conviction takes place, and shall be recovered by the same Means as the Penalty.

Also the Section numbered 68 of the said Act.

Commissioners may make Bye Laws for regulating Hackney Carriages.

LXVIII. The Commissioners may from Time to Time (subject to the Restrictions of this and the special Act) make Bye Laws for all or any of the Purposes following; (that is to say,) (a.)

(a.) These Bye Laws are in course of making, and will probably be in time to form No. 7 in App-

For regulating the Conduct of the Proprietors and Drivers of Hackney Carriages plying within the prescribed Distance in their several Employments, and determining whether such Drivers shall wear any and what Badges, and for regulating the Hours within which they may exercise their Calling : (Sections 79.80.81.)

For regulating the Manner in which the Number of each Carriage, corresponding with the Number of its Licence, shall be displayed :

For regulating the Number of Persons to be carried by such Hackney Carriages, and in what Manner such Number is to be shown on such Carriage, and what Number of Horses or other Animals is to draw the same, and the placing of Check Strings to the Carriages, and the holding of the same by the Driver, and how such Hackney Carriages are to be furnished or provided :

For fixing the Stands of such Hackney Carriages and the Distance to which they may be compelled to take Passengers, not exceeding the prescribed Distance :

For fixing the Rates or Fares, as well for Time as Distance, to be paid for such Hackney Carriages within the prescribed Distance, and for securing the due Publication of such Fares :

For securing the safe Custody and Re-delivery of any Property accidentally left in Hackney Carriages, and fixing the Charges to be made in respect thereof.

LXXX. That for each of the Licences for Hackney Carriages and the Business relating thereto there shall be paid by the Person to whom the Licence is granted on the granting thereof, to the Commissioners Clerk, the following Sums applicable to the Borough Fund ; *viz.* Fees for Licences of Hackney Carriages.

For each Licence for a Hackney Coach, Cabriolet, One or Two Horse Fly Carriage, or other like Carriage, the Sum of Five Shillings :

For each Licence for a Pony or Donkey Cart, or Gig, Fly Chair, Wheel Chair, Sedan Chair, or other like Conveyance, the Sum of Three Shillings and Sixpence.

LXXXI. That nothing in this Act, or in any Byelaw made by the Commissioners for any of the Purposes aforesaid, contained, shall extend to prohibit or hinder any Person from having or using his own Coach, Fly Carriage, Pony Cart or Donkey Cart, Act not to prevent Use of private Carriages or Chairs.

(Secs. 82.83.)

or Gig, Wheel Chair, Fly Chair, or Sedan Chair, or other Conveyance within the Borough, so as the same be not used for Hire or plying for Hire.

Application
of Penalties
recovered from
Proprietors, &c.
of Hackney
Carriages.

LXXXII. That all pecuniary Fines and Forfeitures to be recovered of any Proprietor or Driver of a Hackney Carriage, or any hired Chairman, shall be applied to the Borough Fund ; but no Part of such Fines or Forfeitures shall be paid to the Complainant or Informant ; nevertheless any Overcharge (a.) for Fare may be ordered to be returned to the Party aggrieved.

Markets and
Fairs.

And with respect to Markets and Fairs :

Fairs, Mops,
Hirings, &c.
not to be held in
the Streets.

LXXXIII. Whereas certain Fairs, Markets, Mops, and Hirings have heretofore been held in the *High Street* and other Streets and Places within the Town of *Cheltenham*, and such Fairs, Markets, Mops, and Hirings are a great Nuisance, Obstruction, and Inconvenience to such Streets and Places, and to the Inhabitants thereof and the Public in general, and it is expedient that the same should be prevented, and removed from and out of such Streets and Places, in manner herein-after mentioned : Be it enacted, That after the passing of this Act no Person shall hold any Fair, Market, Mop, or Hiring in, upon, or about the *High Street* or any other Street within the Borough, nor erect or place in, upon, or about the same or any of them any Stall, Standing, Booth, Carriage, or Thing whatsoever, for the Purpose of selling or exposing to Sale any Goods, Wares, or Merchandises, or any Articles or Things usually sold in Fairs or Markets, or under any other Pretence whatsoever, nor shall any Person stand or loiter in or about the *High Street*, or any other Street aforesaid, for the Purpose of being hired ; and that all such Fairs, Markets, Mops, and Hirings shall from henceforth be held in the present public Market Place in the Borough of *Cheltenham*, or at such other Place or Places upon private Property as the Person entitled to the said Markets shall from Time to Time direct and appoint ; and all Persons who shall so erect or place any Stall, Standing, Booth, Carriage, or Thing, and all Persons, except licensed Hawkers acting as such, (b.) who shall sell or expose for Sale any Goods,

To be held in
Market Place.

Penalty for
breaches, &c.

(a.) See section 58 of the Town Police Clauses Act, ante, page 116, to the same effect.

(b.) This Section has had an extended construction placed upon it, prohibiting Parties not only standing at stalls, or standings on market, or fair days, in the streets to sell or expose for sale their butter, eggs, onions, &c. &c. goods, wares, &c., but at all other times prohibiting parties going about or calling at houses, to sell, or offer for sale their Butter, Poultry, &c. &c. It has been

Wares, or Merchandises, or any Article or Thing usually sold in Fairs or Markets, and all Persons who shall stand or loiter for the Purpose of being hired, in, upon, or about the *High Street*, or any other Street as aforesaid, after the passing of this Act, shall forfeit for every such Offence any Sum not exceeding Ten Pounds: Provided always, that nothing in this Act contained shall extend to prevent the Fairs and Markets being held for the Sale of Horses, Cattle, Sheep, and other Beasts in the several Streets and Places where the same Markets and Fairs have heretofore been accustomed to be holden, until a proper Place shall be found and provided by the Commissioners, and approved of by the Person entitled to the said Markets and Fairs, for the holding of such Fairs and Markets.

(Secs. 63. 84.)

Exception of
Sale of Horses,
&c.

LXXXIV. That it shall be lawful for the Commissioners to purchase all or any of the Markets and Fairs, with the Market Houses, Market Places, Market Yards, Stalls, Standings, Shambles, Conveniences, and Premises thereto belonging, within the Borough of *Cheltenham*, and the Tolls, Duties, and Payments arising or to arise therefrom, by Agreement with the Owner thereof, and such Purchase shall be One of the Purposes of this Act.

Power of Sale
and Purchase of
Markets, Tolls
&c.

said, that the majority, if not all, the promoters of the Bill never intended such a prohibition. This extended construction not only nullifies the preamble, or recital in the Section, but as regards practically the whole of Cheltenham repeals several of the most important provisions of the Hawking Act, which are in general operation and by which, persons are permitted to sell (inter alia) fish, fruit, or victuals, (a term as L. C. J. Tenterden said "comprising everything, which constitutes an ingredient in the food of man;") and by which workers or makers of Home wares, or merchandise, or their children, or servants are permitted to carry abroad, or expose to sale, or sell by retail, or otherwise, such home wares, or merchandise, in every City, Borough, town corporate, and market town; and by which persons are permitted to carry about coals in carts, or on horses, &c. and sell the same by retail; and by which, Tinkers, Glasiers, &c. &c. are permitted to go about in their callings, &c. &c. It is contended by those who advocate the extended construction, that the enacting words are more extensive than the preamble, but if looked at rightly they do not appear so. A construction of the clause, inflicting the penalties, more extended than the recital, does not seem authorized, and even extends beyond the prohibition. The prohibition is against erecting, &c. stalls, &c. for the purposes of selling, &c.; now one penalty is for so erecting, and the words, "who shall sell, or expose," necessarily were intended to include only the other parts of the prohibition namely, "sell or expose for sale at such stall, &c. The penalty for standing, or loitering for hire which follows clearly manifests the intentions, and confines the whole 3 penalties to the 3 mischiefs mentioned in the preamble, and prohibited in the first enacting paragraph. Besides, if this extended construction be the correct one, it does, as already observed, not only repeal several of the most important provisions of the Hawking Act, but it alters the Common Law of the Land, and goes far beyond the mischief contemplated in the recital in the Section, and the provisions contemplated in the preamble and Title of the Act. For a public Local Act to affect such purposes, the words of such Local act must be unmistakably clear, and express, not capable of two meanings, and free from all doubt, all which requisites, the most strenuous supporters of the extended construction can scarcely say this Section possesses; besides all this, as a highly penal provision, part of the penalty being payable to the Commissioners, and a private act, (though declared public) and especially restricting a Common Law right, as this extended construction does, it must be construed strictly. It must not be forgot that all public local acts have not the same privilege accorded to them in their construction, as public General Acts, and less latitude is allowed in construing the former, than the latter, how much must that latitude be lessened, when the Public Local Act is supposed to repeal the provisions of a Public General Act. Besides the above objections

(Section 85.)

Powers vested in Commissioners, in event of Purchase of Markets, Tolls, &c. to remove Markets, and establish others.

Appoint Officers, &c.

Make Bye Laws, &c.

LXXXV. That if the Commissioners should purchase such Markets and Fairs, Market Houses, Stalls, Standings, Shambles, Tolls, and Premises, they may from Time to Time provide and appropriate convenient Places within the Borough for holding and keeping public Fairs and Markets for the Sale of Horses, Cattle, Sheep, Swine, and other live Cattle, Corn and other Grain, Hay, Straw, and other Articles and Things, and for holding public Hirings, and also provide a proper Market Place or Market Places, Cattle-pens, and other Buildings and Conveniences for the Fairs and Markets, and also order that such Place or Places so appropriated be used as public Fairs and Market Places accordingly; and also may appoint a particular Part or Parts of the Market Places and other Places within the Borough, as well for holding and keeping such Fairs and Markets as also for holding public Hirings; and also may appoint a particular Place or Places in the Fairs and Markets, or any of them, for the erecting Stalls or Standings for vending or exposing to Sale Horses, Cattle, Sheep, Swine, or other Animals, Corn, Hay, Straw, and other Articles and Things; and also may appoint proper Persons to attend the Markets and Fairs, for the better ordering and governing of the same, and collecting the Tolls thereof; and also make Byelaws for regulating the said Fairs and Markets, and all Per-

to an extended construction, there is this general principle, that applies even in the Construction of Public General Acts, whenever the provisions of a new law are opposed to an old law, which is not noticed, and is not distinctly, and affirmatively repealed, or otherwise directly negated, an implication arises in favour of the continuance of that old law, because it has not been noticed, negative, or repealed by the new law; how much force does this implication obtain when the case is that of a doubtful local act opposed to a clear and express public General Act. In *Williams v. Pritchard* 4 T. R. 2. and the next case in the same vol., it was held that where the intention appears that the subsequent Act shall not have such an operation, though the words taken strictly and grammatically, would repeal a former Act, the Courts hold that they ought not to receive such a construction. Both these cases are very similar to the one now in question and appear direct authorities against the extended construction. Lord Coke in his 2nd Institutes p. 386 commenting on the Statute 12 West 2 lays it down, that a mischief not intended to be remedied by a Statute, though within the letter of the law must be taken to be out of the purview of the statute. It may be conceded that some dicta of Judges modify this construction of Acts of Parliament, but in such cases the words have been so clear and express, that no doubt fairly arose as to the meaning and intention of the words, though a doubt might exist as to the intention of the Legislature; in the case in question, no doubt exists as to the intention of the Legislature being against the extended construction, and more than great doubt exists, whether the words fairly convey the meaning or intention of the extended construction. Again a party who with his covered Basket of Poultry knocks at the door of a house, is admitted into the Hall, Kitchen, or other part of the house, and in such part sells, or exposes for Sale the contents of his Basket, cannot be said "to sell or expose for sale" such contents "in, upon, or about the High Street, or any other Street," if the section can bear such a construction, then is the tradesman equally liable to the Penalty, who in his shop front (for example, Fishmongers, Poulterers, Butchers, &c. &c.) exposes his goods or articles for sale. To bring this long note to a conclusion one may express a regret, that seeing so much doubt hangs around the point, the extended construction should have been placed on this clause by a local tribunal, without the aid of the Superior Court. Might it not have been well to have left the Complainant to his remedy of applying for a Rule under 11 and 12 Vic. c. 44. s. 5, see note to section 128 post, and so had the Judgment of the Queen's Bench upon the subject.

sons coming or resorting thereto, in all Matters relating to the said Fairs and Markets, and for fixing and ascertaining the Days and Hours when the same respectively shall be held, and also when (in the proper Parts of the said Fairs and Markets respectively) the said respective Commodities shall respectively be begun to be offered, placed, and exposed for Sale, and how long the same may continue exposed for Sale, and also the Mode and Manner of carrying and conveying the said several Commodities to and from such Fairs and Markets, and also the Time or Times when any such Stalls or Standings as aforesaid shall be erected and set up, and taken down or removed.

(Secs. 85. 86.
87. 88. 89.)

LXXXVI. That after the purchasing of all the Markets, Fairs, Tolls, and Premises, and after the making and publishing of any Orders of the Commissioners which shall appoint any particular Place or Places for holding and keeping any such Fairs, Markets, or Hirings as aforesaid, no Person shall hold any Fair, Market, or Hiring in any other Part or Place of the said Borough.

No Markets to
be held in other
Places than
those appointed.

LXXXVII. That when and if the Fairs and Markets shall be purchased by the Commissioners, and come into their Possession, there shall be paid to them or to the Person to be by them appointed to receive the same, by all Persons holding, using, or occupying any Building, Shed, Stall, Standing, Bulk, Tressel, Block, or other Convenience, Standing Place, or Station, for selling, offering, or exposing to Sale any Provisions, Sheep, Swine, or other live Cattle, Corn, and other Grain, Fish, Butcher's Meat, Poultry, Milk, Butter, Eggs, Vegetable and other Viands and Provisions, Goods, Wares, and Merchandises, Hay, Straw, or Fodder, in the said Market Place or Market Places, the several Tolls, Duties, Rents, and Stallage mentioned, expressed, or contained in the Schedule (C.) to this Act annexed.

Tolls to be
taken.

LXXXVIII. That the Commissioners may from Time to Time reduce, lower, and abate the Tolls or any of them in such Proportions and Manner as to them shall seem expedient; and after the Tolls have been so reduced and abated it shall be lawful for the Commissioners from Time to Time to augment the Tolls so reduced and abated to any Sums not exceeding the Amount of the Tolls fixed and made payable by this Act.

Commissioners
may reduce
Tolls, and re-
store them.

LXXXIX. That upon every such Reduction or Augmentation of the Tolls the Commissioners shall immediately cause Notice thereof, painted or printed on a Board, to be set up and fixed in

Notice of Alter-
ation of Tolls.

Sections
(90. 91. 92.

some public Part within the Limits of the said Market Place, with the Table of the Tolls so reduced or augmented.

Tolls payable
every Day of the
Week.

XC. That the several Tolls and Stallage Dues shall be paid in respect of every Day of the Week on which any Building, Stall, or other Convenience, Standing Place, or Station, shall be held or occupied, or any Article, Matter, or Thing shall be exposed to Sale.

When they shall
be paid, and by
whom.

XCI. That the said Tolls and Stallage Dues to be paid by the Sellers shall become due when and so soon as the several Cattle, Beasts, Articles, Matters, or other Things in respect whereof the same are respectively made payable shall be brought into the said Market Place or Market Places, and before the same shall be driven or taken or permitted to go into any Pen or Pens, Place or Places therein, or be placed on any Stall, Tressel, Block, Bench, or other Convenience; and in case of any Sale thereof in the said Market or Markets, then also the Tolls shall again be payable immediately after the Expiration of the Time allowed for the Removal of such Cattle, Beasts, or other Things, after the Sale thereof; and the said Tolls to be paid by the Buyers shall become due and payable immediately after the Sale thereof.

Recovery of
Tolls.

XCII. That the several Tolls and Stallage Dues shall be forthwith paid to the Commissioners or to their Collector by the Owner of the several Cattle, Beasts, Articles, Matters, or other Things in respect whereof the same shall be respectively payable, or by the Person accompanying such Cattle, Beasts, Articles, Matters, or Things, and by the Purchaser thereof; and if such Owner, Purchaser, or other Person shall, upon Demand thereof made by the Collector, either immediately or at any Time afterwards, neglect or refuse to make Payment of the said Tolls or any Part thereof, it shall be lawful for the Collector, either by himself or with his Assistants, to seize and distrain the Cattle, Beasts, or other Things in respect whereof the said Tolls or Stallage Dues shall become payable, or any of them, or any of the Goods or Chattels of the Person so neglecting or refusing to pay the same as aforesaid; and if such Tolls, and the reasonable Charges of such Detention and Distress, and of keeping and maintaining the Things distrained, shall not be paid, such Collector shall and may, at the Expiration of Five Days thereafter, sell and dispose of the Things distrained, or any Part thereof, and out of the Monies which shall arise by such Sale shall and may pay or retain such Tolls, and all reasonable Charges incurred by such

By distress on
Beasts, &c.

Sale, &c.

Detention, Distress, and Sale, returning the Overplus (if any) of the said Monies, and such of the said Things distrained as shall remain unsold (if any), upon Demand, to the Owner thereof, or the Person in whose Possession the same shall have been when so detained and distrained as aforesaid, or as he shall direct. (Section 93.)

XCIII. That it shall be lawful for the Commissioners, at any Time when they shall deem it expedient, to provide, erect, place, and maintain, in some convenient Place within the Borough, a sufficient and proper Machine (or several such Machines, if requisite,) for the weighing of Waggon, Carts, and other Carriages, together with such Buildings as may be necessary for the due Management and Superintendence of any such Machine, and from Time to Time to employ any proper Person or Persons to attend such Machine, who shall weigh all Carriages brought thereto, and make Entries in Books, to be kept for that Purpose, of the Weights thereof, and deliver Tickets specifying the same Weights to the Drivers of such Carriages; and it shall also be lawful for the Commissioners from Time to Time to fix and determine what Fees shall be taken by the Person or Persons so attending, from the Drivers of such Carriages, for weighing the same, and also to make and establish Byelaws for the Management of the said Machine, and relative to the Conduct of the Person or Persons appointed to attend the same, and of the Owners or Drivers of Carriages brought thereto, and for the Prevention and Punishment and Redress of Frauds and Evasions by such Persons, or any of them, in or about the weighing of Carriages and the loading thereof, or otherwise relative thereto, as the Commissioners think proper; and if any Person or Persons so appointed demand, take, or accept from any Person whomsoever any greater Fee or Reward than such as shall be allowed by the Commissioners, or shall wilfully disobey or act contrary to any Byelaw so made by the Commissioners, every Person so offending shall for every such Offence forfeit and pay any Sum not exceeding Five Pounds; and the Driver of any such Carriage shall, on Demand of any Person interested, forthwith cause his Carriage to be weighed at such Machine, and if it be weighed with its Load thereon he shall, if so required, cause it to be re-weighed at such Machine after the Discharge of such Load; and if any Driver refuse or neglect so to do, he shall forfeit for every such Offence a Sum not exceeding Forty Shillings; and if any Person shall knowingly act or assist in committing any Fraud respecting the weigh-

Commissioners may provide a public Weighing Machine.

Fees, &c.

Bye Laws, &c.

Extortion, &c.

Breach of Bye-Laws, &c.

Driver to weigh on demand.

Penalty for neglect, &c.

Penalty as to frauds, &c.

(Secs. 94.95.
96. 97.) ing or Weight of any Carriage, or respecting the Weight or Disposal of the Loading thereof, he shall forfeit for every such Offence a Sum not exceeding Five Pounds.

Profits of Markets, &c. to go to the Borough Fund,

XCIV. That all the Proceeds and Profits of the said Markets and Fairs, if purchased as aforesaid, shall go in aid of the special Rate by which the same shall be so purchased while the same Rate continues, and afterwards such Proceeds and Profits shall go to the Borough Fund ; and the Proceeds and Profits of any Weighing Machines to be provided as aforesaid shall go to the Borough Fund.

Public Clocks.
Section 143 of 10 & 11 Vict. c. 34 incorporated.

XCv. And with respect to public Clocks, be it enacted, That the Commissioners may provide and maintain public Clocks, under Section 143 of the "Towns Improvement Clauses Act, 1847."

Power to Commissioners to provide public Clocks.

CXLIII. And with respect to Clocks, be it enacted, That the Commissioners may from Time to Time provide such Clocks as they consider necessary, and cause them to be fixed upon or against any public Building, or, with the Consent of the Owner and Occupier, upon or against any private Building, the Situation of which may be convenient for that Purpose, and may cause the Dials thereof to be lighted at Night, and from Time to Time alter and remove any such Clocks to such other like Situation as they shall consider expedient.

Burials.

Section 81 of 11 and 12 Vict. c. 63 incorporated.

XCVI. And with respect to Burials, be it enacted, That the Section numbered 81 of "The Public Health Act, 1848," shall be incorporated with this Act.

Power to provide Premises for the Reception of the Dead previously to Interment.

LXXXI. And for the Purpose of preventing the manifold Evils occasioned by the Retention of the Dead in the Dwellings of the Poor, be it enacted, That the Local Board of Health may, if they shall think fit, provide, fit up, and make Byelaws with respect to the Management and Charges for the Use of Rooms or Premises in which Corpses may be received and decently and carefully kept previously to Interment ; and the said Local Board may, upon proper Application, and subject to such Regulations and at such Rates and Charges as shall be prescribed by any such Byelaws, make all necessary Arrangements for the decent and economical Interment of any Corpse which may have been received into any Rooms or Premises so provided in pursuance of this Enactment.

No Interments in the Churches and Churchyards, except Saint Mary, Trinity, and Saint Peter's,

XCvII. That from and after the passing of this Act it shall not be lawful to bury, or permit or suffer to be buried, any Corpse or Coffin, within or under any Church or Churchyard now or to be hereafter consecrated in the Parish of *Cheltenham*, other than

the Churches and Churchyards of *Saint Mary*, the *Holy Trinity*, and *Saint Peter* respectively, and in the said Churches and Churchyards only in Catacombs; that is to say, whenever any Vault or Grave shall be made or opened, each Coffin shall, after Deposit, be so closely, separately, and exclusively encased or compactly enclosed in a Cavity, Building, or Partition as that no Air shall escape therefrom, and which Cavity, Building, or Partition shall never, after such Deposit, be opened or in any way interfered with; and that Interment in the Church and Churchyard of *Saint Mary Cheltenham* shall also be subject to the Restrictions following:

(Sections
97.98.99.)
and those sub-
ject to Re-
strictions.

Saint Mary's
subject to special
restriction, as—

No new Vault or Grave shall be made therein :

No new Vaults.

In the now existing Vaults or Graves none but Members of the Families to which they respectively belong shall be interred:

None but mem-
bers of Families
to be buried.

No Interment shall take place in any now existing Vault or Grave, unless the same were originally constructed, or within Five Years after the passing of this Act shall be altered and adapted, in or to the Form of Catacombs, so far as regards the Separation of the Bodies buried therein before the passing of this Act from those which thereafter may be there deposited, and so far as regards the Preparation of Cavities for the Isolation of so many Bodies as such existing Vault or Grave shall be sufficiently capacious to receive, or such less Number as it shall be proposed by the Parties interested to deposit therein, to the Satisfaction of the Commissioners; and when so altered and adapted the same Vaults or Graves shall not be interfered with, except for the Deposit of Bodies therein in manner aforesaid, and for the Purpose of sealing up the same after such Deposit.

Adaptation of
present vaults to
future burials.

XCVIII. That the Commissioners may from Time to Time make Rules and Regulations in reference to all Interments in the Borough (the same nevertheless not to affect any lawful Right as to Burial Fees and Payments now existing); and any Person who offends against such Rules and Regulations shall for every such Offence be liable to a Penalty not exceeding Five Pounds.

Regulations as
to Interments.

Penalty for
offending.

XCIX. That for the Purpose of Protection of the Public Health the Commissioners, through their Surveyor, shall have a general Superintendence of all Places of Interment now or to be hereafter used within the Parish, and Notice shall be given to

Superintendence
of Places of
Interment.

(Sections

100. 101.

102. 103.

such Surveyor (at the Office of the Commissioners) of any intended Interment therein ; and such Surveyor, or, in his Absence, any Person appointed by him for the Occasion, shall inspect and superintend the Progress and Completion of such Interment.

Power for Commissioners to close Burial Grounds, with the Approbation of General Board of Health.

C. That from the Time when the Commissioners resolve, and the General Board of Health concurs in the Resolution, that any future or further Interment within or under any Place or Places of Interment now or to be hereafter used within the Borough would or might be prejudicial to the Public Health, then all further Interment in such Place as such Resolution prohibits to be so used shall cease.

Penalty for Interment contrary to Act.

CI. That any Person who, contrary to this Act, buries, or permits or suffers to be buried, any Corpse or Coffin, or disturbs the same when deposited, as herein-before mentioned, shall for every such Offence be liable to a Penalty not exceeding Twenty Pounds.

Power of Substitution.

CII. That in all Cases in which the Commissioners are of opinion that there is any Right or Claim as to Interment prohibited by this Act which should be compensated by means of Substitution of One Space of Ground for another Space of Ground, the Commissioners shall have the Power to make such Substitution in the new Burial Ground towards the Western Extremity of the Town of *Cheltenham*, or in any Burial Ground which may be hereafter provided for the Parish ; provided that no such Substitution of Space in any consecrated Ground shall be made for Space in unconsecrated Ground, nor shall any Substitution of consecrated Ground for consecrated Ground be made without the Consent of the Churchwardens of the Parish.

Proviso as to consecrated ground.

Power to Commissioners to fill up, disuse, &c. in Churches and Church-yards.

CIII. That it shall be lawful for the Commissioners, at any Time or Times after the passing of this Act, with the Consent of the Churchwardens of the Parish, to take Order and Means to prevent the Escape of Gases from such of the Vaults or Brick Graves in the Churches or Churchyards of the Borough as from Time to Time can be no longer lawfully used for Interment under this Act, and to fill up with Earth, or arch over and cement, or in some other effectual Way seal up the same Vaults and Graves, and to level and improve the same Churchyards, using in all Cases proper Precautions not to disturb the Remains of Persons buried in the same Church or Churchyards, and restoring and replacing all Tombs and Grave Stones which shall be removed in

To improve such Churches and Church-yards.

the course of such Works or any of them ; and the Commissioners shall defray the Expenses of all such Operations out of the Borough Rate. (Sections 104.105.) Expenses.

CIV. That when it appears to the Commissioners, and the General Board of Health certifies, that the Cemetery or new Burial Ground at the Western Extremity of the Borough of *Cheltenham* is in or approaching to a State unfit or insufficient for the further Reception of Corpses or Coffins, it shall be lawful for the Commissioners, with the Concurrence of the General Board of Health, to purchase Land for the making a Cemetery or Cemeteries for the Parish, and such Purchase shall be One of the Purposes of this Act ; and the Commissioners may, with the Concurrence of the General Board of Health, make Rules and Regulations in all respects as to the Establishment and Management of such Cemetery or Cemeteries, and Fees to be taken and Payments to arise therefrom ; and from and after the same shall be made and established, any Person burying, or causing, permitting, or suffering to be buried, any Corpse or Coffin in any other Place in the Parish than the said Cemetery or Cemeteries (except in the Churches and Churchyards of *Saint Mary*, the *Holy Trinity*, and *Saint Peter* respectively, in manner and during the Time aforesaid, and except in any Family Vault now existing in the said new Burial Ground, in respect of Members of the same Family, and except in any Cemetery to be provided for Dissenters, as herein-after mentioned,) shall for every Offence be liable to a Penalty of Fifty Pounds, recoverable by any Person, with full Costs of Suit, by Action of Debt in any competent Court, with Power to the Judge of such Court, at his Discretion, to mitigate such Penalty to any Sum not less than Twenty Pounds: Provided always, that such Land so to be purchased shall not be within Three hundred Yards of any Dwelling House, except with the Consent in Writing of the Owner, Lessee, and Occupier of such Dwelling House.

Provision for new Cemetery when required.

Purchase of Land.

Rules, &c.

When made no Interment elsewhere, (except *Sta. Mary*, *Peter*, *Trinity*, and *Dissenters Cemetery*) under Penalty.

Proviso as to situation.

CV. That in regard to the Cemetery so to be acquired the following several Provisions in the Cemeteries Clauses Act, 1847, shall be incorporated herewith :

Sections 23 to 26 of 10 and 11 Vict. c. 65. incorporated with this Act.

The Section numbered 23 of the said Act :

XXIII. The Bishop of the Diocese in which the Cemetery is situated may, on the Application of the Company, consecrate any Portion of the Cemetery set apart for the Burial of the Dead according to

A Part of Cemetery to be set apart and consecrated for Burial of Members of

(Sec. 105)
Established
Church.

the Rites of the Established Church, if he be satisfied with the Title of the Company (a.) to such Portion, and thinks fit to consecrate such Portion ; and the Part which is so consecrated shall be used only for Burials according to the Rites of the Established Church.

Also the Section numbered 24 of the same Act :

Consecrated
Ground to be
defined.

XXIV. The Company shall define by suitable Marks the consecrated and unconsecrated Portions of the Cemetery.

Also the Section numbered 25 of the same Act :

A Chapel in connexion with the Established Church to be constructed.

XXV. The Company shall build, within the consecrated Part of the Cemetery, and according to a Plan approved of by the Bishop of the Diocese, a Chapel for the Performance of the Burial Service according to the Rites of the Established Church.

Also the Section numbered 26 of the same Act :

Bodies when interred not to be removed without lawful Authority.

XXVI. No Body buried in the consecrated Part of the Cemetery shall be removed from its Place of Burial without the like Authority as is by Law required for the Removal of any Body buried in the Churchyard belonging to a Parish Church.

Consecrated Ground to be deemed in Cheltenham Parish, and subject to existing rights in new Burial Ground.

The consecrated Part of the Cemetery, in whatever Parish the same shall be locally situate, shall for all Purposes of a Parochial Burial Ground be deemed to be situate in the Parish of *Cheltenham*, and to be the Burying Ground of the said Parish, and the Freehold thereof shall vest, after Consecration, in the Persons in whom the Freehold of the ancient Churchyard and new Parochial Burial Ground is vested, and such Persons shall have and may exercise the same Rights of granting Privileges of making and using Vaults and Graves and other Rights and Usages in such consecrated Part as they now have or may exercise in the new Parochial Burial Ground ; and the Incumbent of *St. Mary Cheltenham*, and Churchwardens of the said Parish, and Parish Clerk and Sexton respectively, shall have and be entitled to the same Rights, Privileges, Fees, and Emoluments in the consecrated Part of such Cemetery as they now are entitled to by Prescription, Usage, or otherwise in the new Parochial Burial Ground ; but all Payments made to the Churchwardens for Vaults and Graves in the consecrated Part of such Cemetery shall be accounted for and paid over to the Commissioners :

Also Sections 51, 58, and 59 of the same Act.

Also the Section numbered 51 of the same Act :

(a.) "The Company" is to be read "Commissioners," see Section 3, p. 6, ante.

- LI.** The Bishop of the Diocese in which the Cemetery is situated, and all Persons acting under his Authority, shall have the same Right and Power to object to the placing, and to and procure the Removal of any monumental Inscription within the consecrated Part of the Cemetery as he by Law has to object to or procure the Removal of any monumental Inscription in any Church or Chapel of the Established Church, or the Burial Ground belonging to such Church or Chapel, or any other consecrated Ground.

(Section 105)
Bishop to have Power to object to monumental Inscriptions in consecrated Part of Cemetery.

Also the Section numbered 58 of the same Act :

- LVIII.** Every Person who shall wilfully destroy or injure any Building, Wall, or Fence belonging to the Cemetery, or destroy or injure any Tree or Plant therein, or who shall daub or disfigure any Wall thereof, or put up any Bill therein or on any Wall thereof, or wilfully destroy, injure, or deface any Monument, Tablet, Inscription, or Gravestone within the Cemetery, or do any other wilful Damage therein, shall forfeit to the Company for every such Offence a Sum not exceeding Five Pounds.

Penalty for damaging the Cemetery.

Also the Section numbered 59 of the same Act :

- LIX.** Every Person who shall play at any Game or Sport, or discharge Fire-arms, save at a Military Funeral, in the Cemetery, or who shall wilfully and unlawfully disturb any Persons assembled in the Cemetery for the Purpose of burying any Body therein, or who shall commit any Nuisance within the Cemetery, shall forfeit to the Company for every such Offence a Sum not exceeding Five Pounds.

Penalty on Persons committing Nuisances in the Cemetery.

Also the following Sections of the Cemeteries Clauses Act, 1847 ; but the same shall extend only to that Portion of the Cemetery which is not set apart for Burials according to the Rites of the Established Church :

Also Sections 35 to 50 of the same Act.

The Section numbered 35 of the said Act :

- XXXV.** The Company may set apart the whole or a Portion of that Part of the Cemetery which is not set apart for Burials according to the Rites of the Established Church as a Place of Burial for the Bodies of Persons not being Members of the Established Church, and may allow such Bodies to be buried therein, under such Regulations as the Company appoint.

As to Burial of Persons not Members of the Church of England.

Also the Section numbered 36 of the same Act :

- XXXVI.** The Company may allow, in any Chapel (a.) built within

Company may allow any Burial

(a.) No provision is made for building this Chapel, (though there is provision for building one in the consecrated part of the Cemetery, sec. 25 of the Cemeteries Clauses Act, ante, p. 130.) By the 11th sec. of the Cemeteries Clauses Act, not incorporated, the company were authorized to build "such chapels" as they thought fit.

(Section 105)
Service to be
performed in
Dissenting
Chapels.

the unconsecrated Part of the Cemetery, a Burial Service to be performed according to the Rites of any Church or Congregation other than the Established Church, by any Minister of such other Church or Congregation duly authorized by Law to officiate in such Church or Congregation, or recognized as such by the religious Community or Society to which he belongs.

Also the Section numbered 37 of the same Act :

Power to appoint
Grave-diggers,
&c.

XXXVII. The Company may appoint Gravediggers and other Servants necessary for the Care and Use of the Cemetery, and may pay them such Wages and Allowances as they think fit out of the Monies to be received by virtue of this and the special Act, and may remove them or any of them at their Pleasure.

Also the Section numbered 38 of the same Act:

Regulations for
ensuring De-
cency and
Solemnity.

XXXVIII. The Company shall make Regulations for ensuring that all Burials within the Cemetery are conducted in a decent and solemn Manner.

Also the Section numbered 39 of the same Act :

No Burials under
or close to
Chapels.

XXXIX. No Body shall be buried in any Vault under any Chapel (a.) of the Cemetery, or within Fifteen Feet of the outer Wall of any such Chapel.

Section 40
extended to sub-
stitution powers

Also the Section numbered 40 of the same Act; and this Provision shall extend to the Substitution without Price of new Burying Space for Space in the old Burial Grounds not belonging to the Established Church, in Cases wherein the Commissioners are herein-before authorized to make such Substitution : (b)

Parts of the
Cemetery may
be set apart for
exclusive Burial.
Monumental
Inscriptions.

XL. The Company may set apart such Parts of the Cemetery as they think fit for the Purpose of granting exclusive Rights of Burial therein, and they may sell, either in perpetuity or for a limited Time, and subject to such Conditions as they think fit, the exclusive Right of Burial in any Parts of the Cemetery so set apart, or the Right of One or more Burials therein, and they may sell the Right of placing any Monument or Gravestone in the Cemetery, or any Tablet or monumental Inscription on the Walls of any Chapel or other Building within the Cemetery.

Also the Section numbered 41 of the same Act :

(a.) This restriction will not affect the consecrated part, and see note to section 38 of Cemeteries Clauses Act, ante, page 131.

(b.) See section 102, ante, page 123.

XLII. The Company shall cause a Plan of the Cemetery to be made ^(Section 105)
 upon a Scale sufficiently large to show the Situation of every Burial ^{Plan and Book of}
 Place in all the Parts of the Cemetery so set apart, and in which ^{Reference to be}
 an exclusive Right of Burial has been granted; and all such Burial ^{kept, and be open}
 Places shall be numbered, and such Numbers shall be entered in ^{to Inspection.}
 a Book to be kept for that Purpose, and such Book shall contain
 the Names and Descriptions of the several Persons to whom the
 exclusive Right of Burial in any such Place of Burial has been
 granted by the Company; and no Place of Burial, with exclusive ^{Exclusive right}
 Right of Burial therein, shall be made in the Cemetery without ^{to be marked.}
 the same being marked out in such Plan, and a corresponding
 Entry made in the said Book, and the said Plan and Book shall be
 kept by the Clerk of the Company.

Also the Section numbered 42 of the same Act :

XLIII. The Grant of the exclusive Right of Burial in any Part of ^{Form of Grant}
 the Cemetery, either in perpetuity or for a limited Time, and of ^{of Burial in}
 the Right of One or more Burials therein, or of placing therein ^{Vault, &c. to be}
 any Monument, Tablet, or Gravestone, may be made in the Form ^{according to}
 in the Schedule to this Act annexed, or to the like Effect, and ^{Schedule.}
 where the Company are not incorporated it may be executed by
 the Company or any Two or more of them.

(a.) *Form of Grant of Right of Burial.*

By virtue of [*here name the special Act*] we [*here state the Name* ^{Form of Grant,}
or Description of the Company], in consideration of the Sum of
 to us paid by of
 do hereby grant unto the said the exclusive Right of
 Burial [*or the Right of burying* Bodies, *as the Case may*
be,] [*or the Right of placing a Monument, Tablet, or Gravestone,*]
 in [*here describe the Ground intended for the exclusive Burial, or*
for placing a Monument, Tablet, or Gravestone, as the Case may be,
so as to identify the same, and if a Place of exclusive Burial, add,
 “numbered on the Plan of the Cemetery, made in pur-
 suance of the said Act”], to hold the same to the said
 in perpetuity [*or the Period agreed upon*] for the Purpose of Burial
 [*or as the Case may be*].
 Given under our Common Seal [*or under our Hands and Seals, as the*
Case may be,] this Day of in the Year
 of our Lord

Also the Section numbered 43 of the same Act :

XLIII. A Register of all such Grants shall be kept by the Clerk to ^{Register of}
 the Company, and within Fourteen Days after the Date of any ^{Grants to be}
 kept,

[a] The Cheltenham Act does not incorporate the Schedule of these forms of Grant and Assign-
 ment, though they are here inserted. Nor does the Schedule to the Cheltenham Act contain any
 such forms.

(Section 105)

Clerk's Fee.

Inspection.

such Grant and Entry or Memorial of the Date thereof and of the Parties thereto, and also of the Consideration for such Grant, and also a proper Description of the Ground described in such Grant, so as the Situation thereof may be ascertained, shall be made by the said Clerk in such Register; and such Clerk shall be entitled to demand such Sum as the Company think fit, not exceeding the prescribed Sum, or if no Sum be prescribed Two Shillings and Sixpence, for every such Entry or Memorial; and the said Register may be perused at all reasonable Times by any Grantee or Assignee of any Right conveyed in any such Grant, upon Payment of the prescribed Sum, or if no Sum be prescribed the Sum of One Shilling, to the Clerk of the Company.

Also the Section numbered 44 of the same Act :

Rights of Burial, &c. to be assignable, or may be bequeathed by Will.

XLIV. The exclusive Right of Burial in any such Place of Burial shall, whether granted in perpetuity or for a limited Time, be considered as the Personal Estate of the Grantee, and may be assigned in his Lifetime or bequeathed by his Will.

Also the Section numbered 45 of the same Act :

Form of Assignment.

XLV. Every such Assignment made in the Lifetime of the Assignor shall be by Deed duly stamped, in which the Consideration shall be duly set forth, and may be in the Form in the Schedule to this Act annexed, or to the like Effect.

(a.) Form of Assignment of Right of Burial.

I *A.B.* of _____ in consideration of the Sum of _____ paid to me by *C.D.* of _____ do hereby assign unto the said *C.D.* the exclusive Right of Burial in [here describe the Place], and numbered _____ on the Plan of the Cemetery made in pursuance of the said Act, which was granted to me [or unto *A.B.* of _____] in perpetuity [or as the Case may be] by [here state the Name of the Company] by a Deed of Grant bearing Date the _____ Day of _____ and all my Estate, Title, and Interest therein, to hold the same unto the said *C.D.* in perpetuity [or, as the Case may be, for the Remainder of the Period for which the same was granted by the said Company], subject to the Conditions on which I held the same immediately before the Execution hereof.

Witness my Hand and Seal this _____ Day of _____

Also the Section numbered 46 of the same Act :

Assignments to be registered.

XLVI. Every such Assignment shall, within Six Months after the Execution thereof, if executed in *Great Britain* or *Ireland*, or within Six Months after the Arrival thereof in *Great Britain* or

[a] See note to page 133 ante.

Ireland, if executed elsewhere, be produced to the Clerk of the Company, and an Entry or Memorial of such Assignment shall be made in the Register by the Clerk of the Company, in the same Manner as that of the original Grant; and until such Entry or Memorial no Right of Burial shall be acquired under any such Memorial; and for every such Entry or Memorial the Clerk shall be entitled to demand such Sum as the Company think fit, not exceeding the prescribed Sum, or if no Sum be prescribed Two Shillings and Sixpence. (Secs. 105.
106)

Also the Section numbered 47 of the same Act :

XLVII. An Entry or Memorial of the Probate of every Will by which the exclusive Right of Burial within the Cemetery is bequeathed, and in case there be any specific Disposition of such exclusive Right of Burial in the said Will an Entry of such Disposition, shall, within Six Months after the Probate of such Will, be made in the said Register, in the same Manner as that of the original Grant, and until such Entry no Right of exclusive Burial shall be acquired under such Will; and for every such Entry or Memorial the Clerk of the Company shall be entitled to demand such Sum as the Company think fit, not exceeding the prescribed Sum, or if no Sum be prescribed Two Shillings and Sixpence. Probates of
Wills to be
registered.

Clerk's fee.

Also the Section numbered 48 of the same Act :

XLVIII. No Body shall be buried in any Place wherein the exclusive Right of Burial shall have been granted by the Company, except with the Consent of the Owner for the Time being of such exclusive Right of Burial. Vaults to be kept
exclusively for
Purchasers of
exclusive Right.

Also the Section numbered 49 of the same Act :

XLIX. No such Grant as aforesaid shall give the Right to bury within the consecrated Part of the Cemetery the Body of any Person not entitled to be buried in consecrated Ground according to the Rites and Usage of the Established Church, or to place any Monument, Gravestone, Tablet, or monumental Inscription respecting any such Body within the consecrated Part of the Cemetery. No such Grant
to give the Right
of Burial in
consecrated
Ground to cer-
tain Persons.

Also the Section numbered 50 of the same Act.

L. The Company may take down and remove any Gravestone, Monument, Tablet, or monumental Inscription which shall have been placed within the Cemetery without their Authority. Power to remove
Monuments im-
properly erected.

CVI. That all Payments made to the Commissioners in respect of Fees or otherwise arising from the Cemetery or Cemeteries so Application of
Payments for
Burials.

(Sections

107. 108.)

to be provided shall be appropriated towards the Cemetery Rate, if any such Rate be levied; and if the Amount of such Payments shall at any Time exceed what is required for the Purposes to which the Cemetery Rate is made applicable, such Excess, and, if no Cemetery Rate be levied, the whole of such Payments, shall fall into the Borough Fund herein-after mentioned, and be applicable as Part thereof.

Power for the Commissioners to accept Gifts of Land for Cemetery for Dissenters.

CVII. That it shall be lawful for the Commissioners from Time to Time, and at any Time or Times, without any Licence from the Crown, or suing out any Writ of Ad quod damnum, and notwithstanding the Statutes of Mortmain, to accept and take from any Person or Persons willing to give or convey the same, and to hold to them and their Successors, any Land not exceeding altogether Five Acres, and not being situate within such Distance as aforesaid (a.) of any Dwelling House, except with such Consent as herein-before mentioned, upon or for the Trust and Purpose of a Cemetery or Cemeteries for the Burial of the Bodies of Persons Members of any Congregation or Church of Dissenters from or Nonconformists to the Established Church in the Borough or Neighbourhood thereof, according to such Scheme and Regulations as shall be ordained or appointed upon any such Benefaction, and in default of such Scheme and Regulations, in the Manner directed in and by "The Cemeteries Clauses Act, 1847," (b.) with respect to the Portion of a Cemetery set apart as a Place of Burial for the Bodies of Persons not being Mem-

But no Expence thereof to be thrown on Rates.

bers of the Established Church: Provided always, that no Part of the Expense of acquiring any such Cemetery, or holding or managing the same, shall be defrayed out of any Rates levied by virtue of this Act, nor shall any Part of the Payments arising from such Cemetery go to any public Rate or Fund hereby created:

After Cemetery provided no interments in other Dissenter's places of Burial.

Provided also, that after any such Cemetery is provided no Person shall bury or permit to be buried any Corpse or Coffin in the Yard or Ground attached or belonging to any Chapel or Place of Religious Meetings of such Dissenters or Nonconformists in the Parish, under the like Penalty, and with the like Power of Mitigation, as is herein-before provided in the Case of the Offence of burying in other than the future Cemetery, for every such Offence. (a.)

Any new Cemetery subject to future General

CVIII. That any Cemetery acquired under the Powers of this Act shall be subject to the Provisions of any General Act for the

(a.) Section 104 ante, page 129. (b.) See the provisions ante.

Regulation of Interments which may be passed in this or any subsequent Session of Parliament, and shall also, with reference to the sanitary Regulation thereof, be subject to any Orders which may be made by the General Board of Health with reference thereunto.

(Sections
108.109.
110.111.)
Acts and to
General Board
of Health.

CIX. Provided always, That nothing in this Act contained, nor any Act, Matter, or Thing done by or under the Authority of the same, shall extend to invalidate or avoid any Law now in force for providing new or additional Parochial Burial Grounds, or any Ecclesiastical Law or Constitution of the Church of *England*, or any of the Powers of the Church Building Commissioners; and that the Bishop of the Diocese of *Gloucester* and *Bristol*, and any Archdeacon, Chancellor, or Official of the same Diocese, may respectively at all Times exercise such or the like Ecclesiastical Jurisdiction, Rights, and Privileges over and in respect to the consecrated Part of the said future Cemetery as they respectively may now exercise over or in respect to the said present new Parochial Burial Ground.

Saving Ecclesiastical Laws and Rights.

And with respect to Rates and Funds, be it enacted,

Rating.

CX. That the Commissioners may from Time to Time divide the Borough into Districts or Parts, for all or any or either of the Purposes of Drainage, cleansing, lighting, paving, watering, or Water Supply, under this Act, and make a separate Assessment upon any such District or Part for and in respect of the Purposes for which the same is formed; and every such District or Part, so far as relates to the Purposes for which such separate Assessment is made, shall be exempt from any other Assessment under this Act for the same Purposes; provided always, that if any Expenses are incurred or to be incurred in respect of Two or more Districts or Parts in common, the same shall be apportioned between them in a fair and equitable Manner; and the Commissioners may throw on the Borough Fund a Rate or Proportion of the Expenses of Works done in and for any District or Part of the Borough.

Public Rating.

Power to divide
Borough into
Districts.

Borough rate
may bear part
of District Rate.

CXI. That where any Property of the *Cheltenham* Gaslight and Coke Company is situate partly within One of such Districts and partly within other of such Districts, but the whole of such Property is assessed in One Sum or Amount to the Rate for

Rating Property
of Gas Company
to District
Rates.

(Section
111.112.

the Relief of the Poor, it shall not be lawful for the Commissioners to assess the whole of such Property to any separate Assessment upon any One District, but only such Part thereof and in such Proportion as the Portion of the Property situate in that District shall bear to the whole of such Property with reference to the rating to the Relief of the Poor.

Section 86 of 11
and 12 Vict. c.
63. incorporated
with this Act;
and applied to
making, pur-
chasing, &c.
Sewers.

Premises
drained not
liable to Dis-
trict Rate for
Sewers.

CXII. That the Section Number 86 of "The Public Health Act, 1848," shall be incorporated with this Act; and such Section shall also be applicable to making, enlarging, altering, arching over, covering, or enclosing, and also to the purchasing or acquiring any Sewer: Provided that no Premises whilst and only so long as the same shall not be drained directly or indirectly into a Sewer of the Commissioners (or into a Sewer which the Commissioners are entitled to use) shall be liable to any special Rate for the purchasing, acquiring, making, enlarging, arching over, covering, enclosing, or repairing of any Sewer; and that no Premises drained into a private Sewer which the Commissioners shall have purchased or acquired or become entitled to use, and to the Use of which Sewer a perpetual Right is appurtenant to such Premises, shall be liable to be rated to any such special Rate as last aforesaid, except in respect of the necessary Reconstruction of such Sewer.

Special District
Rate, for Sewers
and permanent
works.

May extend
over 30 years.

Deduction for
Premises pre-
viously drained.

LXXXVI. And be it enacted, That whenever any Expenses are incurred or to be incurred by the Local Board of Health in making, enlarging, altering, arching over, covering, or enclosing any Sewer vested or to be vested in them by this Act, or purchased or acquired by them by virtue thereof, or in or about any other Works, Matters, and Things of a permanent Nature, and executed or done for the Benefit of any District or Part of a District, the said Local Board shall make and levy, in respect of the Premises situate in the District or Part of a District for the Benefit of which the Expenses are incurred or to be incurred, a Rate or Rates, to be called Special District Rates, of such Amount as will be sufficient to discharge the Amount of such Expenses, and Interest thereon, within such Period, not exceeding Thirty Years, as the said Local Board shall in each Case determine: Provided always, with respect to the Cost of making any such new Sewer, that if it appear to the said Local Board that any Premises were sufficiently drained before the new Sewer was made they shall deduct from the Amount of Rates otherwise chargeable in respect of such Premises such a Sum and for such Time as the said Local Board may, under all the Circumstances of the Case, deem to be just.

(Section 113.)

CXIII. That, notwithstanding anything herein-before contained to the contrary, the Expenses of executing the Works of and incidental to the *Chelt* Main Sewer and Tank at the *Moor's Farm* aforesaid, the *Wyman's Brook* Main Sewer, and *Hatherley Brook* Sewer and Tank, herein-before authorised to be made, and in case the Commissioners should at any Time purchase or acquire the aforesaid Markets or Fairs, the Expenses of such Purchase or Acquisition, and other Expenses connected therewith, shall be defrayed by means of a special Rate (a.) upon the whole Borough; and it shall be lawful for the Commissioners, in case they should at any Time or Times purchase or acquire any Waterworks, or any Gasworks or other Works for public Lighting, or any Cemetery, or any Pleasure Ground, under the Powers of this Act, to make special Rates for the Purpose of defraying the Expenses of such Purchase or Acquisition, and other Expenses connected therewith respectively, upon the Borough or any District or Part thereof:

Rates for the new Main Sewers and Tanks, Purchase of Waterworks, Gasworks, Cemetery, Markets, Fairs, or Pleasure Ground.

And such Part of the Section numbered 92 of the said Public Health Act as relates to the Redemption of special District Rates shall be incorporated herewith, and shall apply to all such special Rates as aforesaid, and shall enable any One Person chargeable with any such Rate separately to redeem his Part or Proportion thereof.

Redemption of such Rates.

XCII. Provided always, and be it enacted, That at any Time before the Expiration of the Period for which any Special District Rate or Private Improvement Rate is made, the Owner or Occupier of the Premises assessed thereto may redeem the same, by paying to

Section 92 of 11 & 12 Vic. c. 53

(a.) It does not appear clear that the Commissioners have power, under this Section, to make rates for the purposes mentioned in it to extend over a lengthened period, in the manner provided by the 86th section of the Public Health Act, last preceding. This section, (which terms the rate "a special rate" and see the Interpretation Clause 3,) does not make the powers of such 86th section (which terms the rate mentioned in it a Special District Rate) applicable to the purposes mentioned in the 113th section, as is provided in the first clause of the 112th section in respect of the works referred to in such clause page 138. The 113th section makes the Redemption clause (92) applicable, which it may be said could not apply, if the rate were not permitted to extend over a long period, but *expressio unius est exclusio alterius*. The 92nd section would not have applied at all to the special rates mentioned in the 113th section, hence the necessity for the express provision effecting that object; the same necessity it would seem existed for an express provision that the 86th section should be applicable to the rates mentioned in the 113th section. The words of the 113th section are peculiar and express "notwithstanding anything herein-before contained to the contrary, the Expenses, &c." "shall be defrayed by means of a Special Rate upon the whole Borough", in one part and "Special Rates" "upon the Borough or any District or part thereof," in the other part, it does not use the words of the said 86th section of the Public Health Act or of the 90th section (incorporated by section 117 post) as to Private Improvement Rates viz: "a Rate or Rates" "of such amount, &c. &c." The Rates for purchasing the sewers of the Cheltenham Sewers' Company will have to be made under the 112th section to which the powers of the 86th section of the Public Health Act are made applicable. It seems like a *casus omissus* which no rules of construction can supply.

(Sections
114.115.)

the Local Board of Health the Expenses in respect of which the Rate was made, or such Part thereof as may not have been defrayed by Sums already levied in respect of the same.

Meaning of
Borough Fund
and Borough
Rate : Rate
charged with
existing
Annuities.

CXIV. That the Section numbered 87 of the said Public Health Act shall be incorporated herewith ; and the Fund therein mentioned shall be called "the Borough Fund," and the Rate therein mentioned be called "the Borough Rate ;" and upon the the Borough Rate shall be charged all Annuities granted under and now due and owing by virtue of the Act hereby repealed, or the former Paving Acts therein and herein-before mentioned, or either of them :

Maximum of
Borough Rate.

But the Amount of such Rate in any One Year shall not exceed the Sum of Two Shillings and Sixpence in the Pound on the rateable Value of the Land and Premises assessable thereto.

Borough Fund
Account to be
kept.

LXXXVII. And be it enacted, That the Treasurer shall keep a separate Account, to be called "The District Fund Account," and the Monies carried to such Account under the Directions of this Act shall be applied by the Local Board of Health in defraying such of the Expenses incurred or to be incurred by the said Local Board in carrying this Act into execution, and not otherwise expressly provided for, as they may think proper ; and the said Local Board shall from Time to Time, when and as often as Occasion may require, make and levy, in addition to any other Rate, a Rate or Rates to be called "General District Rates," for defraying such Expenses as are charged upon that Rate by this Act, and such other Expenses of executing this Act in any District as are not provided for by any other Rate, or defrayed out of the said District Fund Account.

Borough Rate.

Sections 88, 89,
95, & 96 of 11 &
19 Vict. c. 63.
Incorporated
with this Act.

CXV. That the following Sections of "The Public Health Act, 1848," shall be incorporated with this Act :

Tithes, &c. how
assessed.

The Section numbered 88 of the said Act, omitting the last Proviso therein ; and Tithes, Tithe Rentcharges, and other Payments in lieu of Tithes, shall be assessed as and in the same Proportion of their annual Value as Land used as Arable, Meadow, or Pasture Ground only :

Power to Com-
missioners to
abate Rate in
certain Cases.

Provided always, that the Occupiers of Houses, Buildings, or Ground (other than Land assessable in the Proportion of One Fourth only of the net annual Value thereof as aforesaid) in any

Part of the Borough, which Part is not lighted, (a.) paved, cleansed, flagged, repaired, watered, and scavenged by the Commissioners, shall be allowed such an Abatement from the Borough Rate in respect of any such lighting, paving, cleansing, flagging, repairing, watering, or scavenging not performed by the Commissioners as may be settled from Time to Time by the Commissioners :

(Sec. 115.)

LXXXVIII. And be it enacted, That the said Special and General District Rates shall be made and levied upon the Occupier (b.) (except in the Cases herein-after provided) (c.) of all such Kinds of Property as by the Laws in force for the Time being are or may be assessable to any Rate for the Relief of the Poor, and shall be assessed upon the full net annual Value of such Property ascertained by the Rate (if any) for the Relief of the Poor made next before the making of the respective Assessments under this Act ; and for the Purpose of making any such Assessment the Local Board of Health, or any Person appointed by them so to do, may from Time to Time, at all reasonable Times, inspect, take Copies of or make Extracts from, any Rate for the Relief of the Poor within their District, or any Assessments by which the same are made ; and whosoever, having the Custody of such last-mentioned Rate or Assessment, refuses to permit such Inspection, or the taking of any such Copy or Extract, shall for every such Offence be liable to a Penalty not exceeding Five Pounds : Provided always, that if in any District or Part of a District there be no Rate for the Relief of the Poor, the said Special and General District Rates shall be made upon an Estimate of the net annual Value of the several Premises liable thereto in such District or Part of a Dis-

Property assessable to Special and Borough Rates.

Power to copy Poor Rates, &c.

Penalty for refusal to permit inspection.

If no Rate for Relief of the Poor, Rates shall be made in manner prescribed by 6 and 7 W. 4. c. 66.

(a.) The Commissioners on their first Rate of 2s. in the Pound, which included the expenses of obtaining this Act, have made the abatements under this section as follows, viz :—3d. in the Pound for parts not lighted, 3 farthings in the pound for parts not flagged, and 3 farthings in the pound for parts not scavenged, no abatement being allowed on that part of the rate which paid for the repairs of Highways.

(b.) See the Interpretation to the word "Occupier," ante, page 4. The Public Health Act gives no interpretation to that word, and it may here be observed that although the Public Health Act gives Interpretations to certain words, only some of those Interpretations are incorporated into the Cheltenham Act, see page 4, and there is no clause in the Public Health Act as in the Towns Improvement Clauses Act, &c. (see note (a.) page 6, ante, making the words in the sections incorporated, bear the interpretations given in the Acts from which they are incorporated, supposing the special Act into which they are incorporated or the General Interpretation Act have given no Interpretations to such words.

(c.) This exception refers to the cases provided for, in the 95th section of the Public Health Act incorporated by this 115th section, post, p. 143, small tenements, &c. and see the 90th section of the Public Health Act, incorporated by sec. 117, post, charging owners of unoccupied premises with Payment of Private Improvement Rates for such unoccupied premises ; and the 118th sec., post, providing for the summary recovery against the Owner of private improvement expenses assessed on premises pulled down or destroyed, &c. or remaining unoccupied more than twelve successive months.

(Section 115.)

Arable, meadow,
&c. Railway, &c.

trict, by a fit Person appointed by the Local Board of Health in that Behalf, and such Estimate shall be made, as near as Circumstances will permit, in the Manner prescribed by an Act passed in the Seventh Year of the Reign of King *William* the Fourth, intituled *An Act to regulate Parochial Assessments*, or any other Act for the Time being in force for regulating Parochial Assessments : Provided also, that the Occupier of any Land used as Arable, Meadow, or Pasture Ground only, or as Woodlands, Market Gardens, or Nursery Grounds, and the Occupier of any Land covered with Water, or used only as a Canal, or Towing Path for the same, or as a Railway, constructed under the Powers of any Act of Parliament, for public Conveyance, shall be assessed in respect of the same in the Proportion of One Fourth Part only of such net annual Value thereof : (a.)

Also the Section numbered 89 in the said Act :

Rates may be
prospective or
retrospective.Assessment to
Rates in
case of unoccu-
pied Premises.Apportionment
of Rates between
outgoing and
incoming
Tenants, &c.

LXXXIX. And be it enacted, That the Local Board of Health may make and levy the said Special and General District Rates, or any or either of them, prospectively, in order to raise Money for the Payment of future Charges and Expenses, or retrospectively in order to raise Money for the Payment of Charges and Expenses which may have been incurred at any Time within Six Months before the making of the Rate ; and if at the Time of making any General or Special District Rate any Premises in respect of which the Rate may be made are unoccupied, such Premises shall be included in the Rate, but the Rate shall not be charged upon any Person in respect of the same whilst they continue to be unoccupied ; and if any such Premises are afterwards occupied during any Part of the Period for which the Rate was made, and before the same shall have been fully paid, the Name of the incoming Tenant shall be inserted in the Rate, and thereupon so much of the Rate as at the Commencement of his Tenancy may be in proportion to the Remainder of the said Period shall be collected, recovered, and paid in the same Manner in all respects as if the Premises had been occupied at the Time when the Rate was made ; and if any Owner or Occupier assessed or liable to any such Rate cease to be Owner or Occupier of the Premises in respect whereof he is so assessed or liable, before the End of the Period for which

(a.) After this followed the proviso, whose existence was deemed sufficient reason against having a Provisional Order applied to Cheltenham and which proviso is excluded from this Act, and is as follows : - Provided also, that if within any District or Part of a District any kind of Property shall before the passing of this Act have been exempted from rating by any Local Act, in respect of all or any of the Purposes for which General or Special District Rates may be made under this Act, the same kind of Property shall, in respect of the same Purposes, and to the same Extent within the Parts to which the Exemption applies, but not further or otherwise, be exempt from Assessment to any General or Special District Rates under this Act.

the Rate was made, and before the same is fully paid off, he shall be liable to pay only such Part of the Rate as shall be in proportion to the Time during which he continues to be such Owner or Occupier; and in every such Case, if any Person afterwards become Owner or Occupier of the Premises during Part of the said Period, he shall pay such Part of the Rate as shall be in proportion to the Time during which he continues to be such Owner or Occupier, and the same shall be recovered from him in the same Manner as if he had been originally assessed or liable; and the said Local Board may from Time to Time divide their District, or any Street therein, into One or more Parts, for all or any or either of the Purposes of this Act, and make a separate Assessment upon any such Part for and in respect of all or any of the Purposes for which the same is formed; and every such Part, so far as relates to the Purposes in respect of which such separate Assessment is made, shall be exempt from any other Assessment under this Act: Provided always, that if any Expenses are incurred or to be incurred in respect of Two or more Parts of a District in common the same shall be apportioned between them in a fair and equitable Manner.

(Sec. 115.)

Parts of Borough may be separately assessed.

Also the Section numbered 95 in the said Act :

XCV. Provided always, and be it enacted, That when the net annual Value of any Premises liable to Assessment under this Act does not exceed the Sum of Ten Pounds, or whenever any Premises liable to such Assessment are let to weekly or monthly Tenants, or in separate Apartments, and the Rents become payable or are collected at any shorter Period than quarterly, the Local Board of Health may from Time to Time, if they shall think fit, compound with the Owner of such Premises for the Payment of all or any of the Rates to be made under this Act, upon such reduced Estimate of the net annual Value, not being less than Two Thirds or more than Four Fifths of the net annual Value at which the Premises are then assessed, as the said Local Board shall deem to be reasonable; and any Owner who shall refuse to enter into such Composition shall be rated (a.) to and pay the Rates assessed

Composition for and Recovery of Rates upon Tenements under the annual Value of Ten Pounds, &c.

Owners refusing to enter into composition to be rated and pay in full.

(a.) It has been suggested that under the words "Rates to be made," the composition must be offered and refused, prior to the rate being made, and then the owner may be rated; but what time is to be allowed the owner to consider? and what is to be a refusal? It will be observed there are four kinds of premises mentioned in this section viz: 1st.—Premises under the net annual value of £10. 2nd.—Premises under that value and let to weekly Tenants. 3rd.—Premises under that value and let to monthly Tenants, and 4th.—Premises under that value let in separate apartments, then comes the words "and the rents become payable or are collected at any shorter period than quarterly." Mr. Lawes in his arrangement of this clause has placed these words as though they belonged exclusively to the Premises mentioned in the 4th division, but it may be contended that as the three last divisions are only separated by the disjunctive, "or" from the 1st division, the copulative "and" as much connects its following sentence with the 1st

(Sec. 115.)

Owner not to pay
on increased
value.

Occupier liable.

And may deduct
from Rent.

upon such Premises in respect of which the Composition is offered ; and if at any Time the Amount of Composition, or any Rate to which an Owner is assessed as last aforesaid, be due and unpaid, the same may be levied by Distress and Sale of the Goods and Chattels of the Owner in default, wheresoever they may be found, or of the Occupier or Occupiers of the Premises, in the same Manner as is herein-after provided with respect to the Recovery of Rates made under this Act : Provided always, that no such Owner shall be assessed in respect of any increased Rent which may become payable to him by reason of his so compounding for or becoming liable to any Rates as aforesaid : Provided also, that the Occupier or Occupiers of any such Premises as last aforesaid shall be liable to Distress and Sale of his or their Goods and Chattels for the Nonpayment of such Amount of Composition or Rates as may become due in respect of the Premises occupied by him or them during his or their Tenancy, but shall never be liable to pay any greater Sum than the Amount of the Rent actually due from him or them for such Premises ; and he or they may deduct any Amount paid by him or them from the Rent due, or from Time to Time becoming due, from him or them, unless there be an Agreement to the contrary ; and the Receipt for the Amount paid by him or them shall to that Extent be, as against the Owner in default, a sufficient Discharge for Rent.

Also the Section numbered 99 of the said Act :

Notice of Rate.

XCIX. And be it enacted, That public Notice (*a.*) of Intention to make any General or Special District Rate, and of the Time at which it is intended to make the same, and of the Place where a Statement of the proposed Rate is deposited for Inspection, shall be given by the Local Board of Health in the Week immediately before the Day on which the Rate is intended to be made, and at least Seven Days previously thereto ; but in case of Proceedings to levy or recover any Rate it shall not be necessary to prove that such Notice was given.

(*a.*) See the form of Notice Schedule D to this Act post.

division as the 2nd, 3rd, or 4th, making it a precedent condition before the Commissioners can rate the owner, not only that the premises be in each of the four cases, under the net annual value of £10., but that the rents " become payable or be collected at any shorter period than quarterly." The reading is not clear. In the Queen's Printer's copies, the comma is after apartments as it stands in the Text ; in Mr. Lawes table of Rates he reads this part as " or let by the week or month, or in separate apartments at rents payable at periods shorter than quarterly," without any comma after Apartments, but it may be said punctuation has no part in the legal reading of an Act of Parliament. The Commissioners have allowed a reduction of one-fifth under their 1st rate.

And the Notice therein required of the Intention to make a Rate shall be in Writing or in Print, or partly in Writing and partly in Print, and be signed by the Commissioners Clerk or other Officer, and a Copy thereof shall be affixed on the Outside of the outer Door of the Commissioners Office Seven clear Days previously to the making of any Rate.

(Sections
116.117.)
Form, &c. and
Publication.

CXVI. That the Commissioners shall defray the Expenses of maintaining the Highways within the Borough out of "the Borough Rate."

Highways to be
maintained out
of Borough Rate.

CXVII. That the following Sections of "The Public Health Act, 1848," shall be incorporated with this Act :

Sections 90, 91,
92, 120, and 146
of 11 & 12 Vict.
c. 63. incorpora-
ted with this Act.

The Section numbered 90 in the said Act :

XC. And be it enacted, That whenever the Local Board of Health have incurred or become liable to any Expenses which by this Act are or by the said Local Board shall be declared to be Private Improvement Expenses, the said Local Board may, if they shall think fit, make and levy upon the Occupier of the Premises in respect of which the Expenses shall have been incurred, except in the Cases herein-after provided, in addition to all other Rates, a Rate or Rates to be called Private Improvement Rates, (a.) of such Amount as will be sufficient to discharge such Expenses, together with Interest thereon at a Rate not exceeding Five Pounds in the Hundred, in such Period not exceeding Thirty Years as the said Local Board shall in each Case determine : Provided always, that whenever any Premises in respect of which any Private Improvement Rate is made become unoccupied before the Expiration of the Period for which the Rate was made, or before the same is fully paid off, such Rate shall become a Charge upon and be paid by the Owner of the Premises so long as the same continue to be unoccupied.

Private Improve-
ment Rates.

For unoccupied
Premises to be
paid by owners.

And in every such Rate may be included what the Commissioners deem a fair Equivalent for the Labour and Loss incident to the Collection thereof ; and Notice of such Rate shall be given to the Owner or Occupier of the Land or Tenement affected thereby, in manner herein provided for giving Notices to Owners or Occupiers : (b.)

Expense of
collecting.

Notice.

Also the Section numbered 91 in the said Act :

(a.) See the form of such Rate Schedule D. to this Act. (b.) Section 130 of Local Act.

(Section 117)

Proportion of
Private Improve-
ment Rate may
be deducted from
Rent.

Rent to be
limit of de-
duction.

XCI. And be it enacted, That if the Occupier by whom any Private Improvement Rate is paid holds the Premises in respect of which the Rate is made at a Rent not less than the Rack Rent, he shall be entitled to deduct Three Fourths of the Amount paid by him on account of such Rate from the Rent payable by him to his Landlord, and if he hold at a Rent less than the Rack Rent he shall be entitled to deduct from the Rent so payable by him such Proportion of Three Fourths of the Rate as his Rent bears to the Rack Rent; and if the Landlord from whose Rent any Deduction is made under the Provision last aforesaid is himself liable to the Payment of Rent for the Premises in respect of which the Deduction is made, and holds the same for a Term of which less than Twenty Years is unexpired, but not otherwise, he may deduct from the Rent so payable by him such Proportion of the Sum deducted from the Rent payable to him as the Rent payable by him bears to the Rent payable to him, and so in succession with respect to every Landlord (holding for a Term of which less than Twenty Years is unexpired) of the same Premises both receiving and liable to pay Rent in respect thereof: Provided always, that nothing herein contained shall be construed to entitle any Person to deduct from the Rent payable by him more than the whole Sum deducted from the Rent payable to him.

Also so much of the Section numbered 92 in the said Act as relates to the Redemption of Private Improvement Rates :

Redemption of
private Improve-
ment Rates.

CXII. Provided always, and be it enacted, That at any time before the Expiration of the Period for which any Special District Rate or Private Improvement Rate is made, the Owner or Occupier of the Premises assessed thereto may redeem the same, by paying to the Local Board of Health the expenses in respect of which the Rate was made, or such Part thereof as may not have been defrayed by Sums already levied in respect of the same.

Appeal to be to
General Board.

Also the Section numbered 120 in the said Act ; but no other Appeal from any Private Improvement Rate than to the General Board of Health shall be allowed :

Parties aggrieved
by Proceedings
of Commis-
sioners as to
Recovery of cer-
tain Expenses
may appeal to
the General
Board.

CXX. And be it enacted, That if in any Case in which the Local Board are empowered to recover any Expenses incurred by them in a summary Manner, or to declare such Expenses to be Private Improvement Expenses, (a.) any Person shall deem himself to be

(a.) Those cases in which the expenses are to be recovered by the Commissioners in a summary manner alone are as follows :

First.—The expenses of altering, pulling down, &c. unauthorised communications with, or Buildings over the Commissioners Sewers, or new and unauthorised Vaults, arches, or cellars, under the carriage way of any Street, section 47 of the Public Health Act, incorporated by section 33, p. 49.

aggrieved by the Decision of the said Local Board thereupon, he may, within Seven Days after Notice of such Decision, address a Memorial to the said General Board, stating the Grounds of his Complaint; and the said General Board may make such Order in the Matter as to them may seem equitable, and the Order so made shall be binding and conclusive upon the said Local Board; and if the said Local Board shall have proceeded to recover such Expenses in a summary Manner, the said General Board may, if they shall think fit, direct the said Local Board to pay to the Person so proceeded against such Sum as they may consider to be a just Compensation for the Loss, Damage, or Grievance thereby sustained by him.

(Sections
117. 118.)

Also the Section numbered 146 in the said Act.

CXLVI. And be it enacted, That in any Case in which the Local Board of Health may have incurred Expenses for the Repayment whereof the Owner of the Premises for or in respect of which the same are incurred is made liable by this Act, the said Local Board may, if they think fit, allow such Owner Time for Repayment, and receive the same by such annual Instalments, not being less than One Thirtieth Part of the entire Sum, together with Interest at the Rate of Five Pounds in the Hundred upon the Sum from Time to Time remaining unpaid, as they, under the Circumstances of each Case, may consider to be just; but although Time for Repayment be allowed as last aforesaid, the Sum due, or so much thereof as may be unpaid, shall from Time to Time, in case of Default in Payment at the Times respectively appointed for Payment, be recoverable in like Manner in all respects as the entire Sum might have been recovered if Time for Repayment had not been allowed.

Commissioners
may allow
Owners Time
for Repayment
of Expenses.

CXVIII. That whenever any Premises in respect of which any Expenses authorized to be paid by an Improvement Rate have

Summary Re-
covery of Im-
provement Rate
in certain Cases,

Second.—The expenses of altering or pulling down houses, privies, or cesspools, built, without Commissioners consent, or contrary to Act, section 53 of the Public Health Act incorporated by section 41, p. 57.

Third.—The expenses of altering level, or width of new streets, or houses in such streets made contrary to Commissioners' orders, section 72 of the Public Health Act incorporated by section 43, p. 60.

Fourth.—The expenses of examining gas pipes fouling Commissioners' waters, &c. section 80 of the Public Health Act incorporated by section 68, p. 94.

Fifth.—The expenses of abating nuisances in Dwelling houses, cellars, or from overflow or soaking of water-closets, privies, or cesspools, section 59 of the Public Health Act incorporated by section 72, p. 100.

Sixth.—The expenses of purifying houses certified as filthy, &c. section 60 of the Public Health Act incorporated by section 72, p. 101.

Those cases in which the expenses are to be declared Private Improvement expenses alone are as follows:

First.—The expenses of cleaning, reconstructing, or repairing private sewers, sec. 40, p. 54.

Second.—The expenses of laying on compulsory supply of water in houses, section 76 of the Public Health Act incorporated by section 68, p. 93.

(Sections

181. 119.

been incurred are wholly or partly destroyed, pulled down, or suffered to fall into Decay, or lie unoccupied for more than Twelve successive Months, or are subdivided, or have their Boundaries altered, and whenever, for any other Cause, 'it appears to the Commissioners that the Recovery of such Expenses by an Improvement Rate may be impracticable, or practicable only at an undue Cost, or with undue Difficulty or Delay, then and in any such Case the Commissioners may order that such Expenses as remain unpaid, or such Part thereof as they think fit, shall be paid, with Interest and Costs, by the Owner for the Time being of such Premises or the Site thereof, on Demand, or at such Time and by such Instalments as the Commissioners appoint, and the same shall be recoverable from such Owner in a summary Manner.

Sections 93 & 94
of 11 & 12 Vict,
c. 63. Incorporated
with this
Act.

CXIX. That the Sections numbered 93 and 94 of "The Public Health Act" shall be incorporated with this Act.

Water Rate, for
house purposes,
&c.

XCIII. And be it enacted, That whenever and so long as any Premises are supplied with Water by the Local Board of Health, for the Purposes of domestic Use, Cleanliness, or Drainage, they shall make and levy, in addition to any other Rate, a Water Rate upon the Occupier, except as herein-after provided; and the Rate so made shall be assessed upon the net annual Value of the Premises, ascertained in the Manner herein-before prescribed with respect to the said Special and General District Rates; and when several Houses in the separate Occupation of several Persons are supplied by One common Pipe, the respective Houses shall be charged with the Payment of Water Rates, in the same Manner as if each House had been supplied with Water by a separate Pipe: Provided always, that in any District to be called the *Oxford* or *Cambridge* District the Local Board of Health, with the Consent of

Agreements with
Universities.

And those cases in which the Commissioners have a discretionary power, either to recover the expenses in a Summary manner, or declare such expenses private Improvement expenses are as follows:

First.—The expenses of constructing or laying down house drains, section 49 of the Public Health Act incorporated by section 41, p. 55.

Second.—The expenses of constructing water-closets, privies, and ashpits in houses, sec. 51 of the Public Health Act incorporated by section 41, p. 56.

Third.—The expenses of altering or amending drains, water-closets, privies, cesspools, or ashpits out of order, or condition, in private houses, section 54 of the Public Health Act incorporated by section 41, p. 58.

Fourth.—The expenses of repairing, draining, flagging and paving certain streets, being Highways, section 44, p. 61.

Fifth.—The expenses of sewerage, levelling, paving, flagging, and channelling private Streets, section 69 of the Public Health Act incorporated by section 46, p. 62.

Sixth.—The expenses of draining, cleansing, covering or filling up ponds, pools, open ditches, sewers, drains, &c. section 58 of the Public Health Act incorporated by sec. 72, p. 99.

Mr. Lawes seems to imply that the 120th section only applies to the expenses included under the last division, *sed quere*, and see the 118th section, p. 147.

REDUCTION, &c. OF AND AGREEMENTS AS TO RATES. 149

the said General Board, may supply Water to any Hall, College, or Premises of the University within such District, upon such Terms with respect to the Mode of paying for such Supply as shall from Time to Time be agreed upon between such University, or any Hall or College thereof, and the said Local Board. (Sections 119. 120.)

XCIV. And be it enacted, That the said Water Rate shall be payable in advance; and whenever any Person supplied with Water under the Provisions of this Act neglects to pay the Water Rate due from him, upon Demand, the Local Board of Health may prevent the Water from flowing into the Premises of the Defaulter in such Manner as they may think fit, and may recover the Arrears due, together with the Expenses of stopping the Supply, in the Manner herein-after provided with respect to the Recovery of Rates made under the Authority of this Act: Provided always, that the stopping or cutting off any Supply of Water by the said Local Board under this Enactment shall not relieve any Person from any Penalty or Liability to which he would have been otherwise subject. (a.)

Water Rate payable in advance.
Power to stop Water in case of Nonpayment of Rates.

CXX. That the following Sections of "The Public Health Act, 1848," shall be incorporated with this Act:

Also Sections 96, 97, 98, 100 to 104, and 106 of the same Act.

The Section numbered 96 in the said Act:

XCVI. Provided also, and be it enacted, That it shall be lawful for the Local Board of Health to reduce or remit the Payment of any Rate on account of the Poverty of any Person liable to the Payment thereof.

Power to reduce or remit Rates on account of Poverty.

Also the Section numbered 97 in the said Act:

XCVII. Provided also, and be it enacted, That nothing in this Act shall alter, interfere with, or affect any Lease, Contract, or Agreement which shall have been made or entered into between Landlord and Tenant before this Act is applied to the District in which the Premises are situate in respect of which the Lease, Contract, or Agreement was made.

Act not to affect existing Agreements between Landlord and Tenant,

Also the Section numbered 98 in the said Act:

XCVIII. And be it enacted, That the Local Board of Health, before proceeding to make any General or Special District Rate or Private Improvement Rate under this Act, shall cause an Estimate to be prepared of the Money required for the Purposes in respect

Estimate to be prepared before making Rates.

(a) The owner or occupier being compelled to keep his house in a state of cleanliness, the stoppage of his supply of water might create such inconvenience or nuisance as to subject him to penalties Woolrych.

150 **ESTIMATES, INSPECTION & AMENDMENT OF RATES.**

(Sec. 120.)

open to In-
spection.

of which the Rate is to be made, showing the several Sums required for each of such Purposes, the rateable Value of the Property assessable, and the Amount of Rate which for those Purposes it is necessary to make upon each Pound of such Value; and the Estimate so made shall forthwith, after being approved of by the said Local Board, be entered in the Rate Book, and be kept at their Office, open to public Inspection during Office Hours thereat.

Also the Section numbered 100 in the said Act :

Rates and Estimate to be open to Inspection.

C. And be it enacted, That any Person interested in or assessed to any Rate made under this Act may inspect the same, and any Estimate made previously thereto, and may take Copies of or Extracts therefrom, without Fee or Reward ; and whosoever, having the Custody of such Estimate or Rate, refuses to allow or does not permit such Inspection, or such Copies or Extracts to be taken, shall for every such Offence be liable to a Penalty not exceeding Five Pounds.

Penalty for refusing In-
spection.

Also the Section numbered 101 in the said Act :

Description of Owner or Occupier in Rates, if his Name be unknown.

CI. And be it enacted, That whenever the Name of any Owner or Occupier liable to be rated under this Act is not known to the Local Board of Health, it shall be sufficient to assess and designate him in the Rate as "the Owner" or "the Occupier" of the Premises in respect of which the Assessment is made, without further Description.

Also the Section numbered 102 in the said Act :

Rates may be amended by Commissioners.

CII. And be it enacted, That the Local Board of Health may from Time to Time amend any Rate made in pursuance of this Act, by inserting therein the Name of any Person claiming and entitled to have his Name inserted, or by inserting the Name of any Person who ought to have been assessed, or by striking out the Name of any Person who ought not to have been assessed, or by raising or reducing the Sum at which any Person has been assessed, if it appear to the said Local Board that he has been under-rated or over-rated, or by making any other Alteration which will make the Rate conformable to the Provisions of this Act ; and no such Amendment shall be held to avoid the Rate : Provided always, that any Person who may feel himself aggrieved by any such Amendment shall have the same Right of Appeal therefrom as he would have had if the Matter of Amendment had appeared on the Rate originally made, and with respect to him the amended Rate shall be considered to have been made at the Time when he first received Notice of the Amendment ; and in the Case of any

Appeal from amendment.

Person the Amount of whose Rate is increased by the Amendment, or whose Name is thereby newly inserted as aforesaid, the Rate shall not be payable by him until Seven Days after such Notice shall have been given to him. (See. 120.)

Also the Section numbered 103 in the said Act (except as regards Publication of any Water Rate or Private Improvement Rate, which Publication shall not be necessary); and any Rate under this Act may also be recovered by Plaint or Action of Debt: (a.)

Publication not necessary for water, or Private Improvement Rate.
Recovery of any Rate by Action or Plaint.

CIII. And be it enacted, That all Rates made or collected under the Authority of this Act shall be published (b.) in the same Manner as Poor Rates, and shall commence and be payable at such Time or Times, and shall be made in such Manner and Form, and be collected by such Persons, and either together or separately, or with any other Rate or Tax, as the Local Board of Health shall from Time to Time appoint; and if any Person assessed to any such Rate fail to pay the same when due, and for the Space of Fourteen Days after the same shall have been lawfully demanded in Writing, (c.) any Justice may and he is hereby empowered to summon the Defaulter to appear before him, or any other Justice, at a Time and Place to be mentioned in the Summons, to show Cause why the Rate in arrear should not be paid; and in case the Defaulter fail to appear according to the Exigency of the Summons, or no sufficient Cause for Nonpayment be shown, the Justice may, by Warrant under his Hand and Seal, cause the same to be levied by Distress of the Goods and Chattels of the Defaulter: Provided always, that if no Distress sufficient to satisfy the Amount can be found within the Jurisdiction of the Justice by whom such Warrant is granted, and it so appear upon Oath before a Justice of any other County or Jurisdiction in which any Goods or Chattels of the Defaulter may be, the last-mentioned Justice shall endorse his Signature upon the said Warrant, (d.) and thereupon the Amount to be levied, or so much thereof as may be unsatisfied, shall be levied off the last-mentioned Goods and Chattels, in the

Rates made under this Act to be published as Poor Rates, and collected as Commissioners shall appoint.

Justices may summon Persons for Nonpayment, and in default may recover by Distress.

Backing Warrants.

(a.) A Paving Rate imposed under authority of an Act of Parliament is not an incorporeal hereditament, and may therefore be recovered in a County Court. In re Baddeley 4 Exch. 504 19 L. J. Exch. 44.

(b.) By affixing notice in writing or in print, or partly in writing and partly in print, on or near the doors of all the churches and chapels within the Borough, or the part in respect of which the rate is made, previously to the commencement of divine service, on the Sunday next after making of the rate 1 Vic. c. 45 s. 12 and 17 Geo. 2 c. 3 s. 1.

(c.) See the cumulative powers for Recovery of Rates and costs before Justices given by Section 121 post.

(d.) See the 11 and 12 Vict. c. 43 s. 19 as to backing warrants.

(Sections
120. 121.)

Defaulters
quitting pre-
mises.

same Manner as if the Defaulter had been assessed in the last-mentioned County or Jurisdiction ; and if any Person quit or be about to quit any Premises without Payment of any Rate then due from him in respect of such Premises under this Act, and refuse to pay the same after lawful Demand thereof in Writing, any Justice having Jurisdiction where such Person resides or his Goods are found may and he is hereby empowered to summon him to appear, at a Time and Place to be mentioned in the Summons, to show Cause why the Rate so due should not be paid ; and in case the Defaulter fail to appear, or no sufficient Cause for Nonpayment be shown, the Justice may, by Warrant under his Hand and Seal, cause the Sum to be levied by Distress of the Goods and Chattels of the Defaulter.

Also the Section numbered 104 in the said Act :

Form of Distress
Warrant.

CIV. And be it enacted, That Warrants of Distress for the Recovery of any Rate payable under the Authority of this Act may be in the Form contained in the Schedule (a.) (D.) annexed to this Act, or to the like Effect ; and any Constable authorized by any such Warrant who shall neglect or refuse to make Distress or Sale pursuant to the same, after being required so to do by a Collector of the District in which the Rate in arrear was made, shall be liable to a Penalty not exceeding Five Pounds.

Penalty upon
Constables
refusing to levy.

Also the Section numbered 106 in the said Act.

Evidence of
Rates.

CVI. And be it enacted, That the Production of the Books purporting to contain any Rate or Assessment made under this Act shall alone, and without any other Evidence whatsoever, be received as *prima facie* Evidence of the making and Validity of the Rates mentioned therein.

Provisions of 12
and 13 Viet. c. 14
to apply to Rates
levied under this
Act.

CXXI. That the Provisions of an Act passed in the Twelfth and Thirteenth Year of the present Reign, intituled *An Act to enable Overseers of the Poor and Surveyors of the Highways to recover the Costs of distraining for Rates*, shall apply to Rates levied under this Act ; and the Warrants and Summons (b.) in the said Act may be directed to and served by any Officer of the Commissioners.

(a) See Schedule D. incorporated in Schedule E. to this Act.

(b.) Although this Act is not incorporated like the sections from the other Acts, it has been thought better to set out the Act in full in this place. See the general powers to recover rates before Justices in sections 103 and 104 of the Public Health Act, incorporated by the last section.

ANNO DUODECIMO VICTORIÆ REGINÆ.

CAP. XIV.

AN ACT TO ENABLE OVERSEERS OF THE POOR AND SURVEYORS
OF THE HIGHWAYS TO RECOVER THE COSTS OF DISTRAINING
FOR RATES. [11th May 1849.]

WHEREAS Provision is already made by Law for the Recovery of the Sum or Sums at which any Person is rated or assessed to the Relief of the Poor, or is rated or assessed in any Rate for the Highways, in *England* or *Wales*, by Distress and Sale of his Goods and Chattels, and in default of such Distress by Commitment to Prison until the same shall be paid; but no Provision is made for levying the Costs and Expenses incurred by the Overseers of the Poor or the Surveyors of Highways in the Recovery of the same respectively: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That it shall be lawful hereafter for all Justices of the Peace, if in their Discretion they shall so think fit, in any Warrant of Distress they shall make and issue for the levying of any Sum or Sums to which any Person or Persons is or are now or may hereafter be rated or assessed in or by any Rate or Assessment for the Relief of the Poor or for the Highways in *England* or *Wales*, or in or by any other Rate or Assessment which by Law now or hereafter is or shall be directed to be enforced or recovered in the same Manner as a Poor Rate, or in any Warrant for the levying of any Arrears of the same, to order that a Sum, such as they may deem reasonable, for the Costs and Expenses which such Overseers or Surveyors, or the Persons applying for such Warrant, shall have incurred in obtaining the same, shall also be levied of the Goods and Chattels of the Person or Persons against whom such Warrant shall be granted, together with the reasonable Charges of the taking, keeping, and selling of the said Distress.

⁴³ Eliz. c. 2. § 4.
6 W. 4. c. 80.

Where a Warrant of Distress is granted for a Poor Rate or Highway Rate, &c. the Costs of obtaining it may also be levied.

II. And whereas by an Act passed in the Forty-third Year of the Reign of Queen *Elizabeth*, intituled *An Act for the Relief of the Poor*, it is amongst other things enacted, that in default of Distress for a Poor Rate it shall be lawful for Two Justices of the Peace to commit the Party against whom the Distress Warrant shall have issued to the Common Gaol of the County, there to remain without Bail or Mainprize until Payment: And whereas it is desirable to limit the Time within which a Person assessed to a Poor Rate, or any other of the Rates or Assess-

Imprisonment in default of Distress.

⁴³ Eliz. c. 2.

(Sec. 121.)

So much of 43 Eliz. c. 2. as relates to Commitments for Non-payment of Rates, or for Default of Distress, repealed.

Power to order Imprisonment not exceeding Three Months in default of Distress.

One Warrant may be issued against several Rate-payers;

ments aforesaid, may be imprisoned for Nonpayment of the same : Be it therefore enacted, That so much of the said recited Act as relates to the Commitment of any Person to the County Gaol for Nonpayment of any Poor Rate, or for Default of Distress whereon to levy the same, shall be and the same is hereby repealed ; and every Person now undergoing any such Imprisonment under or by virtue of the said recited Act shall be discharged from such Imprisonment so soon as he or she shall have been imprisoned Three Calendar Months, or shall sooner pay the Sum or Sums with which he or she is charged ; and that hereafter, when to any Warrant of Distress for the levying of any Sum or Sums to which any Person or Persons is or are now or may hereafter be rated or assessed in or by any Rate or Assessment herein-before mentioned it shall be returned by the Constable or Person having the Execution of such Warrant that he could find no Goods or Chattels, or no sufficient Goods or Chattels, whereon to levy such Sum or Sums, together with the Costs of or occasioned by the levying of the same, it shall be lawful for any Two or more Justices of the Peace before whom the same shall be returned, or for any Two or more Justices of the Peace for the same County, Riding, Division, Liberty, City, Borough, or Place, if in their Discretion they shall so think fit, to issue their Warrant of Commitment against the Person with relation to whom such Return shall be so made as aforesaid, in the Form (D.) in the Schedule (a.) to this Act annexed, or in any Form to the like Effect, and thereby order such Person to be imprisoned in the Common Gaol or House of Correction for any Time not exceeding Three Calendar Months, unless the Sum or Sums therein mentioned shall be sooner paid ; and every such Warrant of Commitment made or issued for Default of Distress as aforesaid shall be made as well for the Nonpayment of the Costs and Expenses so as aforesaid incurred in obtaining such Warrant of Distress, if the same shall be so ordered as aforesaid, and the Costs attending the said Distress, and also the Costs and Charges of taking and conveying the Party to Prison, (the Amount of such several Costs, Expenses, and Charges being stated in such Warrant of Commitment,) as for the Nonpayment of the Sum or Sums alleged to be due for the said Rates respectively.

III. And be it enacted, That for the saving of Expense in the levying of any Sum or Sums for Rate and Costs as aforesaid it shall be lawful to make and issue One Warrant of Distress against any Number of Persons neglecting or refusing to pay the same, in the Form (b.) in the Schedule to this Act annexed ; but nothing here-

(a.) See this Schedule following the sections of this Act.

(b.) See the form in the Schedule to this Act, post, following the sec.

in shall be deemed or construed to authorize Justices in like Manner to grant or issue One Warrant of Commitment against several Persons in default of Distress as aforesaid.

(Sec. 121.)
But otherwise as to a Commitment in default of Distress.

IV. And be it enacted, That the Warrants aforesaid may be directed to the Churchwardens and Overseers of the Poor, or the Overseers of the Poor, or the Surveyors of the Highways respectively, and to the Constable of the Parish or Township, and to any other Person or Persons, or to any One or more of them, as by the Justices granting the same shall be deemed fit. (a.)

To whom Warrants of Distress or Commitment to be directed.

V. And be it enacted, That every Summons to be issued against any Person for Nonpayment of any Sum for which he or she is or shall be so rated or assessed as aforesaid shall be directed to such Person, and may be in the Form (B.) in the Schedule (b.) to this Act annexed, or in any Form to the like Effect ; and the same may be served by any Churchwarden or Overseer of the Poor, or Surveyor of the Highways, respectively, or Constable or other Person, to whom it shall be delivered for that Purpose, (a) upon the Person to whom it is so directed, by delivering the same to the Party personally or by leaving the same with some Person for him or her at his or her last Place of Abode ; and the Person who shall serve the same in manner aforesaid shall attend at the Time and Place and before the Justices in the said Summons mentioned, to depose if necessary to the Service of the said Summons ; and if, upon the Day and at the Place appointed in and by the said Summons for the Appearance of the Party so summoned, such Party shall fail to appear accordingly in obedience to such Summons, then and in every such Case, if it be proved upon Oath or Affirmation to the Justices then present that such Summons was duly served as aforesaid a reasonable Time before the Time so appointed for his or her Appearance as aforesaid, it shall be lawful for such Justices of the Peace in their Discretion, if they shall so think fit, to proceed *ex parte*, in the same Manner to all Intents and Purposes as if such Party had personally appeared before them in obedience to the said Summons.

Summons and how served.

If not obeyed, the Justices may proceed *ex parte*.

VI. And be it enacted, That in all Cases where any Proceedings have been or shall hereafter be taken to compel Payment of any Sum for which any such Person is or shall be so rated or assessed as aforesaid, if at any Time before such Person shall be committed to and lodged in Prison for Nonpayment thereof, or for or by reason of its being returned to such Warrant of Distress as aforesaid that there are no Goods or Chattels or no sufficient Goods or Chattels of such Person whereon the same may be levied as afore-

On Payment or Tender of Rate and Costs proceedings to cease.

(a.) Or by any Officer of the Commissioners, see section 121, ante, p. 152.

(b) See the Schedule following these sections.

(Sec 121.)

said, such Person shall pay or tender to the Churchwardens or Overseers of the Poor, or any of them, or to the Surveyor of Highways respectively, or other Person authorized to collect or receive such Rate, the Sum so sought to be recovered, together with the Amount of all Costs and Expenses up to that Time incurred in the Proceedings so taken to compel Payment thereof as aforesaid, then and in every such Case the Person to whom such Sum and Costs shall be so paid or tendered shall receive the same, and there-upon no further Proceedings for the Recovery of the same shall be had or taken.

Costs already recovered or proceeded for deemed legal.

VII. And be it enacted, That in all Cases where such Costs and Expenses as aforesaid shall have been paid and received, or any Proceedings taken or Imprisonment had for Nonpayment of the same, such Payment and Receipt, and such Proceedings or Imprisonment, shall be deemed legal to all Intents and Purposes, and no Action or other Proceeding shall be had or proceeded in for or in respect of the same.

Forms in Schedule valid.

VIII. And whereas it may be convenient, and save Expense and Litigation, if Forms to be used for the Purpose of levying the Sums aforesaid should be given : Be it enacted, That the Forms in the Schedule (a.) to this Act contained, or Forms to the same or the like Effect, shall be deemed good, valid, and sufficient in Law. (b.)

SCHEDULE.

(A. 1.)

Form of Complaint against One Ratepayer.

Complaint of the Overseers or Surveyors against One Rate-payer.

to wit. } BE it remembered, That on the Day of
 } in the Year of our Lord the [Churchwardens
 and Overseers of the Poor, or the Surveyors of the Highways] of
 the Parish of in the County of afore-
 said, by C.D., One of the said [Overseers or Surveyors], complain

(a.) See the Schedule next following.

(b.) The next and only other section in this Act exhibits a curious specimen of Act of Parliament making ; it limits the term of Imprisonment for nonpayment of Church Rates to Three Months ; who from reading the Title, or preamble would guess ? that this Act contained so important an alteration in the Law, as limiting Imprisonment for Church Rates, previously without limit ! The section is as follows :—“ And whereas it is desirable to limit the Time within which a Person assessed to a Church Rate may be imprisoned for Nonpayment of the same : Be it enacted, That every Person now undergoing any such Imprisonment shall be discharged from such Imprisonment so soon as he or she shall have been imprisoned Three Calendar Months, or shall sooner pay the Sum or Sums with which he or she is charged ; and that hereafter no Person shall be imprisoned for the Nonpayment of any Church Rate for any Time exceeding Three Calendar Months.

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C.D.

* Or, in and by several Rates made on _____ and
on _____ in the several Sums of _____ and of _____

Complaint against several Rate-payers.

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(Sec.121.)

SCHEDULE.

Names of the Rate-payers.	Residence.	Under Rate dated the 1849.			Arrears due under Rate dated the 1849.			Total Sum due.		
		£	s.	d.	£	s.	d.	£	s.	d.
A. B. - -	(here state it)	1	7	0	1	7	0	2	14	0
I. K. - -	- - - -	0	13	0	-	-	-	0	13	0
L. M. - -	- - - -	-	-	-	0	18	6	0	18	6
N. P. - -	- - - -	0	14	3	0	14	3	1	8	6

C.D.

Made and exhibited before me
 at in the County of }
 on this Day of 1849. }
 E.F.

(B.)

*Summons upon the Complaint.*Summons upon
Complaint.

To A.B. of

WHEREAS Complaint hath this Day been made before the under-
 signed, [One] of Her Majesty's Justices of the Peace in and for
 the [County] of by the [Churchwardens and Over-
 seers of the Poor, or Surveyors of the Highways] of the Parish of
 in the said [County], that you, being a Person
 duly rated and assessed to [the Relief of the Poor, or the Main-
 tenance of the Highways] of the said Parish, in and by a Rate
 made on the Day of 1849, in the Sum
 of , hath not paid the same or any Part thereof, but
 hath refused so to do: These are therefore to command you, in
 Her Majesty's Name, to be and appear on at
 o'Clock in the Forenoon, at before such Two or more
 Justices of the Peace for the said [County] as may then be there,
 to show Cause why you have not paid and refuse to pay the same,
 otherwise you shall be proceeded against by Default as if you had
 appeared, and be dealt with according to Law.

Given under my Hand and Seal, this Day of
 in the Year of our Lord at in the [County]
 aforesaid.

E.F.

Take notice, that you have already incurred the under-mentioned (Sec. 121.)
Costs ; viz.

	s.	d.
Clerk to the Justices	-	-
Overseer [<i>or</i> Surveyor], for obtaining the Summons	-	-
Constable, for serving ditto	-	1 0
Ditto, Travelling Expenses at Three-pence per Mile	-	-
Total	-	-

If the Amount of these Charges, together with the Rate claimed, be paid to the Overseer [*or* Surveyor] before the Day on which the Summons is returnable, all further Proceedings will be stopped.

(C. 1.)

Warrant of Distress against One Rate-payer.

Warrant of Dis-
tress against
one Ratepayer.

To the Overseers of the Poor [*or* to the Surveyors of the High-
ways] of the Parish of in the [County] of
and to the Constable of and to all other Peace
Officers in the said [County].

WHEREAS ON last past a Complaint was made before
E.F., One of Her Majesty's Justices of the Peace in and for the
[County] of by the [Churchwardens and Overseers
of the Poor, *or* Surveyors of the Highways] of the Parish of
in the said [County], that *A.B.*, being a Person duly
rated and assessed to the Relief of the Poor [*or* to the Maintenance
of the Highways] of the said Parish in and by a Rate made on
in the Sum of had not paid the same
or any Part thereof, but had refused so to do ; and now at this
Day, to wit, on at the Parties afore-
said appear before us, the undersigned, Two of Her Majesty's
Justices of the Peace in and for the said County [*or* the said Church-
wardens and Overseers, *or* Surveyors, by *C.D.*, One of the said
Overseers, *or* Surveyors, appear before us, the undersigned, Two
of Her Majesty's Justices of the Peace in and for the said County ;
but the said *A.B.*, although duly called, doth not appear by him-
self, his Counsel or Attorney, and it is now satisfactorily proved
to us on Oath that the said *A.B.* has been duly served with the
Summons in this Behalf, which required him to be and appear here
at this Day before such Two or more Justices of the Peace as
should now be here, to answer the said Complaint, and to be fur-
ther dealt with according to Law] ; and now having heard the

(Sec. 121.)

Matter of the said Complaint, and it being now duly proved to us upon Oath [in the Presence and Hearing of the said *A.B.*], that an Assessment for the [Relief of the Poor, or the Maintenance of the Highways] of the said Parish of _____ and for other Purposes chargeable thereon according to Law, dated the _____ was duly made, allowed, and published, and that the said *A.B.* is therein and thereby assessed at the Sum of _____ afore-said,* and that the said Sum hath been duly demanded of the said *A.B.*, but that he hath not paid, and hath refused and still refuses to pay the same; and the said *A.B.* now not showing to us any sufficient Cause for not paying the same, These are therefore to command you, in Her Majesty's Name, forthwith to make Distress of the Goods and Chattels of the said *A.B.*; and if within the Space of [*Five*] Days after the making of such Distress the said Sum, and the Sum of _____ for the Costs incurred by the said [Churchwardens and Overseers, or Surveyors] in obtaining this Warrant, together with the reasonable Charges of taking and keeping the said Distress, shall not be paid, that then you do sell the said Goods and Chattels so by you distrained, and out of the Money arising by such Sale you retain the said Sums of _____ and _____ rendering the Overplus, on Demand, to the said *A.B.*, the reasonable Charges of taking, keeping, and selling the said Distress being first deducted; and if no such Distress can be found that then you certify the same unto us, to the end that such further Proceedings may be had herein as to the Law doth appertain. Given under our our Hands and Seals, this _____ Day of _____ in the Year of our Lord _____ at _____ in the [County] aforesaid.

*E.F.**G.H.*

* "And that a certain other Assessment for the Relief," &c. to the Asterisk, if there be Arrears.

(C. 2.)

Warrant of Distress against several Rate-payers.

Warrant of Distress against several Rate-payers.

To the Overseers of the Poor or the Surveyors of the Highways of the Parish of _____ in the [County] of _____ and to the Constable of _____ and to all other Peace Officers in the said [County].

WHEREAS ON _____ last past a Complaint was made before *E. F.*, One of Her Majesty's Justices of the Peace in and for the [County] of _____ by the [Churchwardens and Overseers of

(Sec. 121.)

the Poor, or the Surveyors of the Highways] of the Parish of in the said [County], that the several Persons whose Names are mentioned and set forth in the Schedule hereunder written, being Persons duly rated and assessed to [the Relief of the Poor, or Maintenance of the Highways] of the said Parish, in and by the Rates in the Schedule in that Complaint and in this Warrant underwritten, in certain Sums set down opposite to their respective Names in the said Schedule, had not respectively paid the said Sums or any Part thereof, but had respectively refused so to do ; and now at this Day, to wit, on at the said [Churchwardens and Overseers, or Surveyors] by C.D., One of the said Overseers, or Surveyors, and A. B., I. K., and L. M., some of the said Parties in the said Schedule mentioned, appear before us, the undersigned, Two of Her Majesty's Justices of the Peace in and for the said [County] ; but the said N.P., although duly called, doth not appear by himself, his Counsel or Attorney, and it is now satisfactorily proved to us on Oath that the said N. P. has been duly served with the Summons in this Behalf, which required him to be and appear here at this Day before such Two or more Justices of the Peace as should now be here to answer the said Complaint, and to be further dealt with according to Law ; and now having heard the Matter of the said Complaint against the said several Parties, and it being now duly proved to us upon Oath, in the Presence of the Parties so appearing as aforesaid, that an Assessment for [the Relief of the Poor] of the said Parish of and for other Purposes chargeable therein according to Law, dated the was duly made, allowed, and published, and that the said several Persons whose Names are mentioned and set out in the Schedule hereunder written are therein and thereby assessed at the Sums set down opposite to their respective Names in the said Schedule, and that the said several Sums have been duly demanded of them respectively, but they have not nor hath any of of them paid the said Sums or any of them, or any Part thereof respectively, but they have refused and still do refuse to pay the same respectively, and have not, nor hath any of them, showed to us sufficient Cause for not paying the same ; These are therefore to command you, in Her Majesty's Name, forthwith to make Distress of the Goods and Chattels of the several Persons whose Names are mentioned and set out in the Schedule hereunder written ; and if within the Space of Five Days after the making of such Distresses respectively the said several Sums set opposite to their respective Names at which they were so rated and assessed as aforesaid, and the said several Sums for Costs incurred by the said [Churchwardens and Overseers, or Surveyors] also set opposite to their respective Names, together with the reasonable Charges of taking and keeping the said Distress in each Case, shall not be paid, that

Warrant of Distress.

RECOVERY OF RATES.

(Sec. 121.)
Warrant of
Distress.

then you do sell the Goods and Chattels of the Party so making default so by you distrained, and out of the Money arising by such Sales respectively you retain the Sums so set opposite to the Name of each Party whose Goods you shall have so sold, rendering to him the Overplus, the reasonable Charges of taking, keeping, and selling the said Distress being first deducted; and if in any of the Cases mentioned in the Schedule hereunder written no such Distress can be found, that then you certify the same unto us, to the end that such further Proceedings may be had herein as to the Law doth appertain.

SCHEDULE.

Names of Rate-payers.	Residence.	Under Rate dated 1849.			Arrears due under Rate dated 1849.			Costs.			Total.		
		£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
A. B. - -	(here state it)	1	7	0	1	7	0	0	6	0	8	0	0
I. K. - -	- - - -	0	13	0	-	-	-	0	2	0	0	15	0
L. M. - -	- - - -	-	-	-	0	18	6	0	3	0	1	1	6
N. P. - -	- - - -	0	14	3	0	14	3	0	5	0	1	13	6

Given under our Hands and Seals, this Day of
in the Year of our Lord at in the [County]
aforesaid.

E. F.
G. H.

(D.)

Warrant of
Commitment
in default of
Distress.

Warrant of Commitment in default of Distress.

To the Overseers of the Poor [or the Surveyors of the Highways] of the Parish of in the [County] of and to the Constable of and to all other Peace Officers in the said [County], and to the Keeper of the [House of Correction] at in the said [County].

WHEREAS on last past a Complaint was made before *E. F.*, Esquire, One of Her Majesty's Justices of the Peace in and for the said [County] of by the [Churchwardens and Overseers of the Poor, or Surveyors of the Highways] of the Parish of in the said [County], that *A. B.*, being a Person duly rated to the [Relief of the Poor, or Maintenance of

the Highways] of the said Parish, in and by a Rate made on (Sec. 121.)
in the Sum of had not paid the same Warrant of
or any Part thereof, but had refused so to do ; and afterwards on Commitment.
at the Parties aforesaid appeared before
E.F. and G.H., Esquires, Two of Her Majesty's Justices of the
Peace in and for the said County [*or* the said Churchwardens and
Overseers, *or* Surveyors, by *C.D.*, One of the said Overseers, *or*
Surveyors, appeared before *E.F. and G.H.*, Esquires, Two of Her
Majesty's Justices of the Peace in and for the said County ; but
the said *A.B.*, although duly called, did not appear by him-
self, his Counsel or Attorney, and it was then satisfactorily proved
to the said Justices that the said *A.B.* had been duly served with
the Summons in that Behalf, which required him to be and appear
there at that Day before such Two or more Justices of the Peace
as should then be there, to answer the said Complaint, and to be
further dealt with according to Law] ; and then having heard the
Matter of the said Complaint, and it being then duly proved to
the said Justices upon Oath [in the Presence and Hearing of the
said *A.B.*] that an Assessment for the [Relief of the Poor, *or* the
Maintenance of the Highways] of the said Parish of
dated the was duly made, allowed, and published,
and that the said *A.B.* was therein and thereby assessed at the
Sum of aforesaid, and that the said Sum had been
duly demanded of the said *A.B.*, but that he had not paid, and had
refused and still refused to pay the same, and the said *A.B.* then
not showing to the said *E.F. and G.H.* any sufficient Cause for
not paying the same, the said Justices thereupon then issued a
Warrant to commanding them to levy the said Sum
of and the Sum of for the Costs incurred in
obtaining that Warrant, by Distress and Sale of the Goods and
Chattels of the said *A.B.* : And whereas it now appears to me, the
undersigned, One of Her Majesty's Justices of the Peace in and
for the said [County], as well by the Return of the said
to the said Warrant of Distress as otherwise, that the said
hath made diligent Search for the Goods and Chattels of the said
A.B., but that no sufficient Distress whereon to levy the said Sums
above mentioned could be found : These are therefore to command
you the said [Churchwardens and Overseers, *or* Surveyors] and
Constable and Peace Officers, or some or one of you , to take the
said *A.B.*, and him safely to convey to the [*House of Correction*]
at aforesaid, and there deliver him to the said Keeper,
together with this Precept : And I do hereby command you, the
said Keeper of the said [*House of Correction*], to receive the said
A.B. into your Custody in the said [*House of Correction*], there
to imprison him for the Space of unless the said Sums
of and together with the Sum of

(Sections
121.122.)

for the Costs attending the said Distress, and the further Sum of
being the Costs and Charges of this Commitment, and
of taking and conveying the said *A.B.* to Prison, making in the
whole the Sum of shall be sooner paid unto you the
said Keeper; and for your so doing this shall be your sufficient
Warrant.

Given under my Hand and Seal this Day of
in the Year of our Lord at in the [County]
aforesaid.

J.S. (L.S.)

Sections 107 to
114 & 119 of 11
& 12 Vict. c. 63.
Incorporated
with this Act.
Mortgage of
Rate:.

And with respect to the Mortgages to be executed upon the
Credit of any Rate under this Act, be it enacted,

CXXII. That the following Sections of the Public Health
Act, 1848, shall be incorporated with this Act:

The Section numbered 107 in the said Act:

Rates may be
mortgaged.

CVII. And be it enacted, That the Local Board of Health may, for
the Purpose of defraying any Costs, Charges, and Expenses in-
curred or to be incurred by them in the Execution of this Act,
borrow and take up at Interest, on the Credit of the Rates autho-
rized to be made or collected under this Act, any Sums of Money
necessary for defraying any such Costs, Charges, and Expenses;
and for the Purpose of securing the Repayment of any Sums so
borrowed, together with such Interest as aforesaid, the said Local
Board may mortgage and assign over to the Persons by or on be-
half of whom such Sums are advanced the respective Rates upon
the Credit of which the Sums are borrowed; and the respective
Mortgagees shall be entitled to a Proportion of the Rates com-
prised in their respective Mortgages according to the Sums in such
Mortgages mentioned to have been advanced; and each Mort-
gagee shall be repaid the Sums so advanced, with Interest, with-
out any Preference over the others of them by reason of any
Priority of Advance or the Date of his Mortgage: Provided al-
ways, that the Money borrowed under the Authority of this Act
shall be borrowed only for Works of a permanent Nature, and shall
not at any Time exceed in the whole the assessable Value for One
Year of the Premises assessable under this Act within the District
or Part of the District for or in respect of which such Money shall
be borrowed, and shall (as far as practicable) be borrowed upon
the Credit of the respective Rates applicable to the Works, Mat-

No Priority
amongst Mort-
gagees.

Only for Works
of a permanent
nature and
limited in
amount.

ters, or Things in respect of which the Money is required; and the Money borrowed for the Purpose of defraying any Costs, Charges, or Expenses incurred or to be incurred in respect of Part of a District only shall be charged (as far as practicable) upon the Credit of any separate Rates made or to be made for the Purposes of such Part; and in case any such Costs, Charges, or Expenses shall apply to or be incurred in respect of Two or more of such Parts, the Money borrowed in respect of the same shall be equitably apportioned by the Local Board upon any Rates made or to be made for the Purposes of such Parts respectively.

(Sec.122.)

Apportionment
of Loans between
parts of Districts.

Also the Section numbered 108 of the same Act :

CVIII. And be it enacted, That the Commissioners acting in the Execution of an Act passed in the Second Session of the Fifth Year of Her Majesty's Reign, intituled *An Act to authorize the Advance of Money out of the Consolidated Fund to a limited Amount for carrying on Public Works and Fisheries and Employment of the Poor, and to amend the Acts authorizing the Issue of Exchequer Bills for the like Purposes*, and in the Execution of any of the Acts recited in that Act, or of any Act or Acts for amending or continuing the same Acts or any of them, may, if they shall think fit, make Advances to the Local Board of Health of any District, for the Purposes of this Act, upon the Security of the Rates to be levied by such Board under this Act, and without requiring any further or other Security than a Mortgage of such Rates.

Commissioners
of Public Works
may make ad-
vances to Com-
missioners under
5 & 6 Vict. c. 9.

Also the Sections numbered 109 and 110 of the same Act :

CIX. And be it enacted, That if the Local Board of Health can at any Time borrow at a lower Rate of Interest than that secured by any Mortgage previously made by them, and then outstanding and in force, they may, if they shall think fit, so borrow accordingly, in order, with the Consent of the Mortgagee, to pay off and discharge any of the Securities bearing a higher Rate of Interest, and may charge the Rates which they may be authorized to mortgage under this Act with Payment of the Sum so borrowed, together with the Interest thereon, in such Manner and subject to such Regulations as are herein contained with respect to other Monies borrowed upon Mortgage.

Money may be
borrowed at
lower Rates of
Interest, to pay
off Securities
bearing a higher
Rate.

CX. And be it enacted, That if at the Time appointed by any Mortgage Deed for Payment of the Principal Money secured thereby the Local Board of Health are unable to pay off the same, they may, if they shall think fit, borrow such Sum of Money as may be necessary for the Purpose of paying off the whole or any Part of the said Principal Monies, and may secure the Repayment of the

Power to borrow
Money to pay off
former Mort-
gages.

(Sec. 122.)

same, and the Interest to be paid thereon, in the same Manner in all respects as on the Case of Monies borrowed for defraying Costs, Charges, and Expenses incurred by the Local Board of Health in the Execution of this Act.

Also the Section numbered 111 of the same Act :

Form of Mortgage.

Register of Mortgages.

Open for Inspection.

CXI. And be it enacted, That every Mortgage authorized to be made under this Act shall be by Deed, truly stating the Date, Consideration, and the Time and Place of Payment, and shall (in the Case of a Noncorporate District) be sealed with the Seal of the Local Board of Health by or on the Part of whom the same is executed, and be signed by Five (a.) or more Members thereof, (or in the Case of a Corporate District) be sealed with the Common Seal, and may be made according to the Form contained in the Schedule (B.) (b.) to this Act annexed, or to the like Effect ; and there shall be kept at the Office of the Local Board of Health a Register of the Mortgages upon each Rate, and within Fourteen Days after the Date of any Mortgage an Entry shall be made in the Register of the Number and Date thereof, and of the Names and Description of the Parties thereto, as stated in the Deed ; and every such Register shall be open to public Inspection during Office Hours at the said Office, without Fee or Reward ; and any Clerk or other Person having the Custody of the same, refusing to allow such Inspection, shall be liable to a Penalty not exceeding Five Pounds.

Also the Section numbered 112 of the same Act :

Transfer of Mortgages.

Register of Transfers.

Clerks Fee

CXII. And be it enacted, That any Mortgagee or other Person entitled to any such Mortgage may transfer his Estate and Interest therein to any other Person by Deed duly stamped, truly stating its Date and the Consideration for the Transfer ; and such Transfers may be according to the Form contained in the Schedule (C) (b.) to this Act annexed, or to the like Effect ; and there shall be kept at the Office of the Local Board of Health a Register of the Transfers of Mortgage charged upon each kind of Rate, and within Thirty Days after the Date of such Deed of Transfer, if executed within the United Kingdom, or within Thirty Days after its Arrival in the United Kingdom, if executed elsewhere, the same shall be produced to the Clerk, who shall, upon Payment of the Sum of Five Shillings, cause an Entry to be made in such Register of its Date, and of the Names and Description of the Parties thereto, as stated in the Transfer ; and upon any Transfer being so registered the Transferee, his Executors, Administrators, or Assigns, shall be entitled to the full Benefit of the original Mortgage, and

(a) By section 23 ante, page 38, Two Commissioners are sufficient.

(b.) See this form incorporated in Schedule E. to this Act.

the Principal and Interest secured thereby; and every such Transferee may in like Manner transfer his Estate and Interest in any such Mortgage; and no Person, except the Person to whom the same shall have been last transferred, his Executors, Administrators, or Assigns, shall be entitled to release or discharge any such Mortgage, or any Money secured thereby. (Sec. 122.)
Transferee or
Executors
&c. only to
discharge.

Also the Section numbered 113 of the same Act :

CXIII. And be it enacted, That the Interest secured by any Mortgage authorized to be made under this Act shall, unless otherwise provided, be paid half-yearly; and in order to pay off any Monies borrowed and secured by any such Mortgage the Local Board of Health shall in every Year, until the same be paid off, appropriate and set apart as a Sinking Fund such Sum as, together with the Interest from Time to Time to accrue thereon, will in the Period of Thirty Years amount to a Sum sufficient to repay the Monies borrowed and secured by any such Mortgage, and shall from Time to Time cause such Sinking Fund, and the Interest thereon, to be invested in the Purchase of Exchequer Bills or other Government Securites, and to be increased by Accumulation in the way of Compound Interest or otherwise; and whenever the said Local Board are enabled to pay off One or more of the Mortgages charged upon the same Property or Rate, and are not able to pay off the whole of the Mortgages so charged, they shall, in default of Arrangement between the Local Board of Health and the Mortgagees, decide by Lot the Order in which the same shall be paid off. Interest to be
paid half-yearly.

Mortgage Debts
to be paid off by
means of Sink-
ing Fund.

Order of paying
off Mortgages.

Also the Section numbered 114 of the same Act :

CXIV. And be it enacted, That if at the Expiration of Six Months from the Time when any Principal Money or Interest has become due upon any Mortgage of Rates made under this Act, and after Demand in Writing, the same be not paid, the Mortgagee or other Person entitled thereto may, without Prejudice to any other Mode of Recovery, apply for the Appointment of a Receiver to Two Justices, who are hereby empowered, after hearing the Parties, to appoint in Writing under their Hands and Seals some Person to collect and receive the whole or a competent Part of the Rates liable to the Payment of the Principal or Interest in respect of which the Application is made, until such Principal or Interest, or both, as the Case may be, together with the Costs of the Application and the Costs of Collection, are fully paid; and upon such Appointment being made all such Rates, or such competent Part thereof as aforesaid, shall be paid to the Person appointed, and when so paid shall be so much Money received by or to the Use of the Mortgagee or Mortgagees of such Rates, and shall be Receiver may be
appointed in
certain Cases.

Apportionment
of Rates.

(Sects. 122,
123.124.)

Sum due must
be £1000.

rateably apportioned between them : Provided always, that no such Application shall be entertained unless the Sum or Sums due and owing to the Applicant amount to One thousand Pounds, or unless a joint Application be made by Two or more Mortgagees or other Person to whom there may be due, after such Lapse of Time and Demand as last aforesaid, Monies collectively amounting to that Sum.

Also the Section numbered 119 of the same Act.

Mortgage of
Rates to be made
only with Ap-
proval of Gen-
eral Board.

CXIX. And be it enacted, That it shall not be lawful for the Local Board of Health to borrow or take up at Interest any Sum or Sums of Money upon the Credit of any Rates authorized to be made or collected under this Act, without the previous Consent of the General Board of Health.

Accounts.

And with respect to Accounts to be kept by the Commissioners, be it enacted,

Account Books
of Income and
Expenditure,

CXXIII. That the Commissioners shall cause Books to be provided and kept, and full and correct Accounts to be entered therein, of all Rates and other Monies levied, received, and recovered by the Commissioners, and of the Application thereof, distinguishing the Times and Purposes when and for which Monies were received and paid, and the respective Districts or Places in and for which Monies were collected and expended; and the Commissioners, and the Ratepayers, and every Creditor on the Rates, may at all reasonable Times inspect and take Copies of or Extracts from such Books, without Fee or Reward; and any Clerk or other Person having the Custody of such Books who, on any reasonable Demand of any such Commissioners, Ratepayers, or Creditor as aforesaid, doth not permit him to inspect such Books, or to take such Copies or Extracts as aforesaid, shall be liable to a Penalty not exceeding Five Pounds for every such Offence.

Open to In-
spection.

Penalty for re-
fusing inspec-
tion or copy.

Annual Account.

CXXIV. That the Commissioners shall in the Month of *October* in every Year cause their Accounts to be balanced up to the Thirtieth Day of the preceding *September*, and the Commissioners shall cause a full Statement and Account to be drawn out of the Amount of all Contracts entered into and of all Monies received and expended by virtue of this Act during such preceding Year, under proper and distinct Heads of Receipts and Expenditure, and also of all Arrears of Rates and other Monies then owing to the Commissioners, and of all Mortgages and other Debts then

owing by the Commissioners; and such Statement shall be produced at the Annual Meeting of the Commissioners and there examined, and when settled shall be certified by the Signature of the Chairman and Commissioners Clerk. (Sec. 125.)
Settlement.

CXXV. That the Section numbered 122 of the Public Health Act shall be incorporated with this Act. Auditor, and
Publication of
Accounts.
Section 122 of 11
& 12 Vict c. 63
incorporated.

CXXII. And be it enacted, That the Accounts of the Receipts and Expenditure of the Local Board of Health shall be audited and examined once in every Year at the least, at such Time or Times as shall be appointed by such Local Board, in case of a Corporate District, by the Auditors of the Corporate Borough, whereof the whole or Part is within such District, and in case of a District exclusively consisting of the whole or Part of Two or more Corporate Boroughs, or of One or more of such Boroughs, and also of Part of any such Borough or Boroughs, by such Two of the Auditors for the Time being of the Corporate Boroughs respectively whereof the whole or Part is within such District as shall from Time to Time be appointed by the Local Board of Health, and in case of any other District as soon as can be after the Twenty-fifth Day of *March* in every Year, by the Auditor of Accounts relating to the Relief of the Poor for the District for the Audit of such Accounts, or for the Parish or Union in which such District under this Act is comprised, or if any District under this Act be partly situate in Two or more Parishes, Unions, or Districts for the Audit of Accounts, by such One of the Auditors for the Time being of the Parishes, Unions, or Districts for the Audit of Accounts (whereof the whole or Part is within such District under this Act) as shall from Time to Time be appointed by the Local Board of Health; and for the Purposes of any Audit and Examination of Accounts under this Act every such Auditors or Auditor may, by Summons in Writing, require the Production before him of all Books, Deeds, Contracts, Accounts, Vouchers, and all other Documents and Papers which they or he may deem necessary, and may require any Person holding or accountable for any such Books, Deeds, Contracts, Accounts, Vouchers, Documents, or Papers to appear before them or him at any such Audit and Examination, or Adjournment thereof, and to make and sign a Declaration with respect to the same; and if any such Person neglect or refuse so to do, or to produce any such Books, Deeds, Contracts, Accounts, Vouchers, Documents, or Papers, or to make or sign such Declaration, he shall be liable for every Neglect or Refusal to a Penalty of Forty Shillings, and if he falsely or corruptly make or sign any such Declaration, knowing the same to be untrue in any material Particular, he shall be liable As to Audit of
Accounts.

By Poor Law
Auditor.

Power to Audi-
tor to require
Production of
Books, &c.

Penalty on Per-
sons for Neglect.

False declaration
before Auditor.

(Sects. 126.
126.)

Auditor's Certificate.

Remuneration.

Accounts previous to Audit to be deposited, and open to Inspection, &c.

Clerk to publish Auditor's Report.

to the Penalties inflicted upon Persons guilty of wilful and corrupt Perjury ; and all Accounts certified by the Auditors or Auditor acting under this Act shall be final and conclusive to all Intents and Purposes ; and such Auditors or Auditor shall in respect of each Audit be paid by the Local Board of Health, out of the General District Rates levied under this Act, such reasonable Remuneration as they shall from Time to Time by Order in Writing determine and appoint : Provided always, that before each Audit and Examination of Accounts under this Act the Clerk shall give Ten Days Notice of the Time and Place at which the same will be made, by Advertisement in some One or more of the public Newspapers usually circulated within the District for which the Audit and Examination will be made ; and a Copy of the Accounts to be audited and examined shall be deposited in the Office of the Local Board of Health, and be open, during Office Hours thereat, to the Inspection of all Persons interested, for Seven Days before the Audit and Examination ; and all such Persons shall be at liberty to take Copies of or Extracts from the same without Fee or Reward ; and within Fourteen Days after the Audit and Examination shall have been completed, the Auditors or Auditor shall report upon the Accounts audited and examined, and shall deliver such Report to the Clerk, who shall cause the same to be deposited in the Office of the Local Board of Health, and to be published in some One or more of the public Newspapers usually circulated in the District to which it relates.

Arbitration.

And with respect to Arbitration under this Act, be it enacted,

Sections 123 to 128 of 11 and 12 Vict. c. 63. incorporated with this Act.

CXXVI. That the following Sections of "The Public Health Act, 1848," shall be incorporated with this Act :

The Section numbered 123 of the said Act :

Mode of referring to Arbitration.

CXXIII. And be it enacted, That in case of Dispute as to the Amount of any Compensation to be made under the Provisions of this Act (except where the Mode of determining the same is specially provided for), and in case of any Matter which by this Act is authorized or directed to be settled by Arbitration, then, unless both Parties concur in the Appointment of a single Arbitrator, each Party, on the Request of the other, shall appoint an Arbitrator, to whom the Matter shall be referred ; and every such Appointment when made on the Behalf of the Local Board of Health shall (in the Case of a Noncorporate District) be under their Seal and the Hands of any Five (a.) or more of their Num-

By sec. 23 ante p. 38 Two Commissioners are sufficient.

ber, or under the Common Seal in case of a Corporate District, and on the Behalf of any other Party, under his Hand, or if such Party be a Corporation Aggregate under the Common Seal thereof; and such Appointment shall be delivered to the Arbitrators, and shall be deemed a Submission to Arbitration, by the Parties making the same; and after the making of any such Appointment the same shall not be revoked without the Consent of both Parties, nor shall the Death of either Party operate as a Revocation; and if for the Space of Fourteen Days after any such Matter shall have arisen, and Notice in Writing by One Party who has himself duly appointed an Arbitrator to the other Party, stating the Matter to be referred, and accompanied by a Copy of such Appointment, the Party to whom Notice is given fail to appoint an Arbitrator, the Arbitrator appointed by the Party giving the Notice shall be deemed to be appointed by and shall act on behalf of both Parties and the Award of any Arbitrator or Arbitrators appointed in pursuance of this Act shall be binding, final, and conclusive upon all Persons, and to all Intents and Purposes whatsoever.

(Sec. 126.)

Death of Party not to revoke.

One Arbitrator may proceed alone, when

Award to be final.

Also the Section numbered 124 of the said Act :

CXXIV. And be it enacted, That if before the Determination of any Matter so referred any Arbitrator die, or refuse or become incapable to act, the Party by whom such Arbitrator was appointed may appoint in Writing another Person in his Stead; and if he fail so to do for the Space of Seven Days after Notice in Writing from the other Party in that Behalf the remaining Arbitrator may proceed *ex parte*; and every Arbitrator so appointed shall have the same Powers and Authorities as were vested in the Arbitrator in whose Stead the Appointment is made; and in case a single Arbitrator die, or become incapable to act, before the making of his Award, or fail to make his Award within Twenty-one Days after his Appointment, or within such extended Time, if any, as shall have been duly appointed by him for that Purpose, the Matters referred to him shall be again referred to Arbitration under the Provisions of this Act, as if no former Reference had been made.

Death, &c. of one of several Arbitrators.

Of single Arbitrator.

Also the Section numbered 125 of the said Act :

CXXV. And be it enacted, That in case there be more than One Arbitrator the Arbitrators shall, before they enter upon the Reference, appoint by Writing under their Hands an Umpire, and if the Person appointed to be Umpire die, or become incapable to act, the Arbitrator shall forthwith appoint another Person in his Stead; and in case the Arbitrators neglect or refuse to appoint an

Appointment of Umpire by the Arbitrators.

By Quarter Sessions.

(Sec. 126.)

Award of Umpire final.

Umpire's duties.

Umpire for Seven Days after being requested so to do by any Party to the Arbitration, the Court of General or Quarter Sessions shall, on the Application of any such Party, appoint an Umpire ; and the Award of the Umpire shall be binding, final, and conclusive upon all Persons and to all Intents and Purposes whatsoever ; and in case the Arbitrators fail to make their Award within Twenty-one Days after the Day on which the last of them was appointed, or within such extended Time, if any, as shall have been duly appointed by them for that Purpose, the Matters referred shall be determined by the Umpire ; and the Provisions of this Act with respect to the Time for making an Award, and with respect to extending to the same in the Case of a single Arbitrator, shall apply to an Umpirage.

Also the Section numbered 126 of the said Act :

Time within which Award must be made.

CXXVI. Provided always, and be it enacted, That the Time for making an Award under this Act shall not be extended beyond the Period of Three Months from the Date of the Submission or from the Day on which the Umpire shall have been appointed (as the Case may be).

Also the Section numbered 127 of the said Act :

Power to Arbitrator to require Production of Documents, examine on Oath.

As to Costs of Reference.

Submission may be made a Rule of Court.

CXXVII. And be it enacted, That any Arbitrator, Arbitrators, or Umpire, appointed by virtue of this Act, may require the Production of such Documents in the Possession or Power of either Party as they or he may think necessary for determining the Matters referred, and may examine the Parties or their Witnesses on Oath ; and the Costs of and consequent upon the Reference shall be in the Discretion of the Arbitrator or Arbitrators, or of the Umpire (in case the Matters referred are determined by an Umpire under the Power herein before contained in that Behalf) ; and any Submission to Arbitration under the Provisions of this Act may be made a Rule of any of the Superior Courts, on the Application of any Party thereto.

Also the Section numbered 128 of the said Act.

Declaration to be made by Arbitrator and Umpire.

CXXVIII. And be it enacted, That before any Arbitrator or Umpire shall enter upon any such Reference as aforesaid he shall make and subscribe the following Declaration before a Justice of the Peace ; (that is to say,)

' I *A.B.* do solemnly and sincerely declare, That I will faithfully and honestly, and to the best of my Skill and Ability, hear and determine the Matters referred to me under the Public Health Act, 1848. *A.B.*'

And such Declaration shall be annexed to the Award when made ; (Sec. 127.) Acting contrary to, a misdemeanor.
 and if any Arbitrator or Umpire shall wilfully act contrary to such Declaration he shall be guilty of a Misdemeanor.

And with respect to the Recovery of Damages and of Penalties not specially provided for, and to the Determination of any Matter referred to Justices of the Peace, be it enacted, Summary Procedure.

CXXVII. That the following Sections of "The Public Health Act, 1848," shall be incorporated with this Act : Also Sections 129 to 134 of the same Act.

The Section numbered 129 of the said Act :

CXXIX. And be it enacted, That in all Cases in which the Amount of any Damages, Costs, or Expenses is by this Act directed to be ascertained or recovered in a summary (a.) Manner the same may be ascertained by and recovered before Two Justices, together with such Costs of the Proceedings as the Justices may think proper ; and if the Sums adjudged be not paid by the Party against whom the Adjudication is made the same may be levied by Distress and Sale of his Goods and Chattels, by Warrant under the Hands and Seals of the Justices making the Adjudication ; and any Penalty imposed by or under the Authority of this Act, or any Byelaw made under this Act, the Recovery whereof is not otherwise expressly provided for, may, upon Proof on Oath of the Offence in respect of which the Penalty is alleged to have been incurred, be recovered before Two Justices, together with such Costs of the Proceedings as they may think proper ; and if the Sums adjudged be not paid by the Party against whom the Adjudication is made the same may be levied by Distress and Sale of his Goods and Chattels, by Warrant under the Hands and Seals of the Justices making the Adjudication ; and such Justices or either of them may order that any Offender convicted as last aforesaid be detained Legal Proceedings. Recovery of Damages, &c. before Justices. Of Penalties. Distress. Detention of Offender till Goods are found, or Security given, &c.

(a) It will be observed that only damages, &c. that by this act are "directed to be ascertained or recovered in a summary manner," can be recovered under this section. In the sections incorporated from the Public Health Act this direction is contained ; but in the 46th, 65th, 69th, 71st, and 83rd sections incorporated from the Towns Improvement Clauses Act, ante, pages 59, 80, 81, 83, and 85, respectively ; and in the 53rd (page 107) and 63rd (page 117) sections from the Town Police Clauses Act, this direction is not contained, and the expenses, &c. are therein simply directed "to be recoverable as damages ;" the Towns Improvement Clauses and Town Police Clauses Acts have each distinct provisions (the former by section 210, the latter by section 78) directing the recovery of such damages under the Clauses of the Railway Clauses Consolidation Act, "with respect to the Recovery of damages not specially provided for." (See these Clauses in the appendix No. 4, post). These Clauses are not incorporated in the Cheltenham Act, and it would seem that the Commissioners, in order to recover the damages, &c. incurred under the above mentioned sections of the Towns Improvement Clauses Act, and the Town Police Clauses Act, must resort to the County Court, or the Superior Courts according to the amount claimed. See note to section 130 of the Public Health Act, page 146, ante, as to what Expenses are directed to be recovered in a summary manner. It is to be remarked no power is given for warrants of distress being executed out of the Justices' Jurisdiction by being backed as in the case of distresses for Rates, see section 103 of the Public Health Act, incorporated by section 130, ante, page 151.

(Sec. 127.)

Commitment in
default of Dis-
tress.

and kept in safe Custody until Return can be conveniently made to the last mentioned Warrant, unless he give sufficient Security, by way of Recognizance or otherwise, for his Appearance on the Day appointed by the Return, such Day not being more than Eight Days from the Time of taking the Security; and if before issuing such Warrant, or upon the Return thereof, it appear to the Satisfaction of the last-mentioned Justices that no sufficient Distress can be had within their Jurisdiction, they may, by Warrant under their Hands and Seals, cause the Offender to be committed to Gaol, there to remain, without Bail, for any Term not exceeding Three Months, unless such Penalty and Costs be sooner paid.

Also the Section numbered 130 of the same Act :

Form of Con-
viction.

CXXX. And be it enacted, That the Justices before whom any Person is convicted of any Offence against the Provisions of this Act may cause the Conviction to be drawn up according to the Form and Directions contained in the Schedule (E.) (a.) annexed to this Act, or to the like Effect; and any Conviction so drawn up shall be valid and effectual to all Intents and Purposes.

Also the Section numbered 131 of the same Act :

Mode of Pro-
ceeding before
Justices.

CXXXI. (b.) And be it enacted, That in proceeding before any Justice or Justices under the Provisions of this Act, in any Case in which the Mode of proceeding is not specially prescribed, any One Justice may summon the Party charged to appear before the Justice or Justices by whom the Matter is to be determined at a Time and Place to be named; and upon the Appearance of the Party charged, or in his Absence upon Proof of Service of the Summons upon him personally, or by leaving a Copy thereof at his last known Place of Abode or Business, the last-mentioned Justice or Justices may hear and determine the Matter, and for that Purpose examine the Parties or any of them, and their Witnesses, (c.) on Oath; and the Costs of all such Proceedings shall be in the Discretion of the last-mentioned Justice or Justices; and where in this Act any Sum of Money whatsoever is directed to be levied by Distress and Sale of the Goods and Chattels of any Party, the Overplus arising from such Sale shall, after satisfying such Sum,

(a.) See the Form incorporated in Schedule E. to this Act, post.

(b.) With regard to Proceedings before Justices see Jervis' Acts which, Mr. Lawes writes, must be construed as supplemental to the Public Health Act and of course to this, and in cases of inconsistency the Local Act being later must govern.

(c.) The 11 and 12 Vic. c. 43, sec. 7, empowers the Justices to Summon, &c. Witnesses within their Jurisdiction.

(Sec.127.)

and the Costs and Expenses of the Distress and Sale, be returned to him, on Demand ; and no Distress levied under the Authority of this Act shall be unlawful, nor shall any Party making the same be a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall he be a Trespasser *ab initio* on account of any Irregularity afterwards committed by him, but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction in an Action upon the Case.

Not unlawful
for want of form.

Also the Section numbered 132 of the said Act :

CXXXII. And be it enacted, That Justices of the Peace, being also Members of any Local Board of Health, may, if acting in Petty Sessions, notwithstanding their being such Members, exercise the Jurisdiction vested in them as such Justices under this Act.

Justices, though
Commissioners
or liable to rates,
may act under
this Act.

And no Justice of the Peace shall be disqualified from acting as such in the Execution of this Act by reason of his being a Commissioner or being liable to the Payment of any Rate under this Act :

Also the Section numbered 133 of the said Act :

CXXXIII. And be it enacted, That no Proceedings for the Recovery of any Penalty incurred under the Provisions of this Act shall be had or taken by any Person other than by a Party grieved, or the Local Board of Health in whose District the Offence is committed, or by the Churchwardens and Overseer of the Poor (where any such Penalty is directed to be paid to the Churchwardens and Overseers of the Poor), without the Consent in Writing of Her Majesty's Attorney General first had and obtained ; and that no such Penalty shall be recovered unless Proceedings for the Recovery thereof shall have been commenced within Six Calendar Months (a) after the Commission or Occurrence of the Offence upon which the Penalty attaches ; and if the Application of the Penalty be not otherwise provided for, One Half thereof shall go to the Informer, and the Remainder to the Local Board of Health of the District in which the Offence was committed : Provided always, that if the said Local Board be the Informer they shall be entitled to the whole of the Penalty recovered ; and all Penalties

Common In-
formers not to
sue without Con-
sent of Attorney
General.

Proceedings for
Penalties to be
taken within
Six Months.

Application of
Penalties.

(a) Where no time is specially appointed for making complaints upon which a Justice or Justices may be authorized to make an order, or laying informations for any act or offence punishable upon summary conviction, such complaint or information must be made or laid within six calendar months from the time when the matter of the Complaint or Information arose. 12 & 13 Vic. 43 s. 11.

(Sections
127.128.)

or Sums recovered on account of any Penalty by them shall be paid over to the Treasurer, and shall by him be placed to the District Fund Account mentioned in this Act.

Also the Section numbered 134 of the same Act.

Liability to
Penalty not to
relieve from
other Liabilities.

CXXXIV. And be it declared and enacted, That, notwithstanding the Liability of any Person to any Penalty under the Provisions of this Act, he shall not be relieved from any other Liability to which he would have been subject if this Act had not been passed.

Certain Pro-
visions of 11 & 12
Vic. c. 44. s. 4
extended to this
Act.

CXXVIII. That the Provision in an Act passed in the Eleventh and Twelfth Year of the Reign of Queen Victoria, intituled *An Act to protect Justices of the Peace from vexatious Actions for Acts done by them in the Execution of their Offices*, contained, for restraining Actions against Justices for enforcing Poor Rates, shall apply to any Rate made under this Act for Payment whereof a Warrant of Distress shall issue against any Person named and rated therein. (a).

(a) In the act, as printed for the promoters of the bill by the printers of the parliamentary agents, the marginal note to this 128th section is, "11 & 12 Vic. cap. 44, s. 4 extended to this act." The Queen's printers copy contains the marginal note as in the Text, omitting the reference to "section 4." Section 4 is the only section referring to the matter mentioned in section 128. It will be observed that the provisions are not verbally incorporated, only made applicable, but it has been thought proper to let section 4 of the act alluded to follow section 128, as though it were incorporated by word, as the other sections from other acts of Parliament.

The act referred to is a most important one for the protection of Justices, and as it may affect or bear on convictions, orders, &c. made under this local act, &c. a short analysis of its contents may not be unacceptable.

The first sec. enacts, that every action brought against a Justice of the Peace for an act done by him within his Jurisdiction shall be on the case as for a tort, and such act shall be alleged to have been done maliciously and without reasonable and probable cause.

Sec. 2.—That for an act without, or exceeding his Jurisdiction, an action may lie as heretofore without such allegation; but not under a conviction or order, until they have been quashed, nor under a warrant to compel appearance, if a summons were previously served, and not obeyed.

Sec. 3.—That the action must be brought against the Justice or Justices making the conviction or order, not the Justice bona fide, and without collusion granting the warrant of distress or commitment.

Sec. 4.—Is the section set out in the Text.

Sec. 5.—That if a Justice refuse to do an act relating to his office, the Court of Queen's Bench may by rule, on affidavits of the facts, order him to do it, and no action shall be brought against such Justice for doing such Act.

Sec. 6.—That after a conviction or order is confirmed on appeal no action shall be brought against the Justice on any warrant granted before or after such appeal on such conviction or order by reason of any defect therein.

Sec. 7.—That actions may be set aside by a Judge where by the act they are prohibited.

Sec. 8.—Limits the time for bringing actions against Justices to six calendar months.

Sec. 9.—Enacts, that one calendar month's notice of action shall be given to Justices before action.

Sec. 10.—Enacts, that the venue shall be laid in the County where the act was committed, or in actions in the County Court within the District of which the Act was committed: that the Defendant may plead general issue and any special matter, &c. in evidence, and may object (within six days after service of summons) to the action being tried in the County Court.

IV. And be it enacted, That where any Poor Rate shall be made, allowed, and published, and a Warrant of Distress shall issue against any Person named and rated therein, no Action shall be brought against the Justice or Justices who shall have granted such Warrant by reason of any Irregularity or Defect in the said Rate, or by reason of such Person not being liable to be rated therein; and that in all Cases where a discretionary Power shall be given to a Justice of the Peace by any Act or Acts of Parliament, no Action shall be brought against such Justice for or by reason of the Manner in which he shall have exercised his Discretion in the Execution of any such Power.

(Sects. 128. 129.)

No Action for issuing a Distress Warrant for Poor Rate by reason of any Defect or that the Party is not rateable.

No Action against Justices for the Manner in which they exercise a discretionary Power.

And with respect to Appeals from Rates and Proceedings under this Act, be it enacted,

CXXIX. That the following Sections of "The Public Health Act, 1848," shall be incorporated herewith:

Sections 135, 136 and 137 of 11 & 12 Vict. c. 63. incorporated with this Act.

The Section numbered 135 of the same Act, as to Appeals against public Rates, Orders, and Convictions, Judgments, or Determinations of any Justice or Justices:

CXXXV. And be it enacted, That any Person who shall think himself aggrieved by any Rate (a.) made under the Provisions of this Act, or by any Order, Conviction, Judgment, or Determination of or by any Matter or Thing done by any Justice or Justices, in any Case, in which the Penalty imposed or the Sum adjudged

Appeal to Quarter Sessions, against Rates & Orders Convictions, &c. of Justices.

(a.) As to appeals from Private Improvement Rates and expenses to be recovered summarily see Section 120 of the Public Health Act incorporated by section 117. ante, p. 146.

Sec. 11.—The Justice may tender and pay money into Court by way of amends.

Sec. 12.—In case Plaintiff fail to prove that the Action was brought within the time or that notice was given, or that the cause of action was as in notice, or within the venue or district, Plaintiff shall be nonsuited or a verdict given for Defendant.

Sec. 13.—Enacts that if the Plaintiff were guilty of the offence, or liable to pay the sum ordered to be paid, and had undergone no greater punishment than assigned by law to the offence, or nonpayment of the sum ordered to be paid, the Plaintiff shall not recover the money paid by him, or more than Two-pence as damages, and no costs.

Sec. 14.—Provides, that if the Plaintiff recover a verdict by Judgment or default, he shall be entitled to costs as though the act had not been passed, or if in such case the Declaration or the summons and particulars allege that the act was done maliciously and without reasonable and probable cause, the Plaintiff, if he recover a verdict for any damages, or Judgment by default, shall be entitled to full costs as between attorney and client; and the Justice in all cases, if he obtain Judgment, shall be entitled to full costs as between attorney and client.

Sec. 15.—Limits the act to England and Wales and Berwick-upon-Tweed.

Sec. 16.—Commences the act on 2nd October, 1848.

Sec. 17.—Enacts that, after commencement of the act, so much of the 7 Jac. 1. c. 5, 21 Jac. 1. c. 12 (a. 5.) and 24 G. 2. c. 44 (s. 1. 2. and part of s. 8.) as relates to actions against Justices of the Peace, and the 43. G. 3. c. 141, and all acts inconsistent with the act, shall be repealed.

Sec. 18.—Enacts that the act shall apply to persons protected by the repealed Statutes, and

Sec. 19.—Enacts that the act may be amended that Session.

(Sec. 129.)

Notice.

Statement of
Grounds.
Powers of
Quarter Ses-
sions.Appeal to subse-
quent Sessions.Only stated
grounds to be
entertained.

shall exceed the Sum of Twenty Shillings, may appeal to the Court of General or Quarter Sessions holden next after the making of the Rate objected to, or Accrual of the Cause of Complaint; but the Appellant shall not be heard in support of the Appeal, unless within Fourteen Days after the making and Publication of the Rate appealed against, or Accrual of the Cause of Complaint, he give to the Local Board of Health or Justice or Justices by whose Act he may think himself aggrieved Notice in Writing stating his Intention to bring such Appeal, together with a Statement in Writing of the Grounds of Appeal; and the said Court, upon hearing and finally determining the Matter of the Appeal, shall and may, according to its Discretion, award such Costs to the Party appealing or appealed against as they shall think proper, and its Determination in or concerning the Premises shall be conclusive and binding on all Persons to all Intents and Purposes whatsoever: Provided always, that if there be not Time to give such Notice and enter into such Recognizance (a.) as aforesaid before the Sessions holden as last aforesaid, then such Appeal may be made to, and such Notice, Statement, and Recognizance be given and entered into for, the next Sessions at which the Appeal can be heard: Provided also, that on the Hearing of the Appeal no Grounds of Appeal shall be gone into or entertained other than those set forth in such Statement as aforesaid.

Also the Section numbered 136 of the said Act:

Power of Ses-
sions upon
Appeals against
Rates.

CXXXVI. And be it enacted, That the said Court of General or Quarter Sessions shall upon Appeals under this Act against any Rate have the same Power (b.) to amend or quash any Rate or Assessment, and to award Costs between the Parties to the Appeal, as is or may by Law be vested in any Court of General or Quarter Sessions with respect to amending or quashing any Rate or Assessment, or awarding Costs, upon Appeals with respect to Rates for the Relief of the Poor; and the Costs awarded by the said Court under this Act may be recovered in the same Manner in all respects as Costs awarded upon the last-mentioned Appeals: Provided

If rate quashed,
Court may order
it to be levied.

(a.) Mr. Lawes in his Edition of the Public Health Act in a Note on this Section accounts for the accidental omission from this section, after the words "grounds of appeal" in the 6th line, of the following clause—

"Nor unless within ten days after such notice he enter into a recognizance, with two sufficient securities, before some Justice conditioned to try the appeal, and abide such order and pay such costs as shall be made and awarded by the said Court."

The Recognizance referred to in the Proviso is the Recognizance which would have been regulated by the passage omitted. It is curious, that with the attention drawn to this omission it was not corrected. The effect will be that no Recognizances on appeals under this section are necessary.

(b.) Sec. 41 Geo. 3. c. 23 as to the Powers of Amendment and quashing, and 17 Geo. 2. c. 26 as to awarding and recovering costs.

always, that, notwithstanding the quashing of any Rate appealed against, all Monies charged by such Rate shall, if the Court before whom the Appeal is heard think fit so to order, be levied as if no Appeal had been made, and such Monies, when paid, shall be taken as Payment on account of the next effective Rate for the Purposes in respect of which the quashed Rate was made. (Sections
129.130.)

Also the Section numbered 137 of the same Act.

CXXXVII. And be it enacted, That no Rate, nor any Proceeding to be had touching the Conviction of any Offender against this Act, nor any Order, Award, or other Matter or Thing whatsoever made, done, or transacted in or relating to the Execution of this Act, shall be vacated, quashed, or set aside for Want of Form, or be removed or removable by Certiorari or other Writ or Process whatsoever into any of the Superior Courts. No Rate or Proceeding to be quashed for Want of Form, &c.

CXXX. And with respect to Notices to Owners and Occupiers, and the Execution of Works by Owners, be it enacted, That the following Provisions of "The Public Health Act, 1848," shall be incorporated with this Act : Notices.

So much of the Section numbered 150 of the said Act as relates to the said Matters ; and Service of Notice upon the known Agent of any Owner shall be sufficient under this Act : Also Sections 150 & 148 of the same Act.

CL. And be it enacted, That (a.) * * * * in all Cases in which any Notice is by this Act required to be given to the Owner or Occupier of any Premises it shall be sufficient to address the Notice to them by the Description of the " Owner " or " Occupier " (as the Case may require) of the Premises (naming them) in respect of which the Notice is given, without further Name or Description ; and the Notice shall be served upon them or One of them, as the Case may require, either personally or by delivering the same to some Inmate of his or their Place of Abode, or in the Case of the Occupier (and also in case of the Owner, if his Place of Abode be unknown,) upon any Inmate of the last-mentioned Premises, or if such Premises be unoccupied, then, in case the Notice is required to be served upon the Occupier, (and in case of the Owner also, if his Residence be unknown,) it shall be sufficient to fix the Notice upon some conspicuous Part of the Premises : Provided always, in the Case of Notices to the Owner, that, although his Place of Abode be known to the Local Board of Health, yet if it be not within the Limits of their District it shall be sufficient for them to transmit any Notice, directed to him by Name, through the Post. Service of Notice upon Owners and Occupiers.

Transmission by post to Owners beyond Limits.

(a.) The first part of this Section is incorporated by Section 20 ante, page 33.

(Secs. 130.
131.132.)

Also so much of the Section numbered 148 of the said Act as relates to Occupiers obstructing Owners from doing Works, or not giving the Names of Owners.

Penalty upon
Occupiers pre-
venting Execu-
tion of Works.

CXLVIII. And be it enacted, That (a.) * * * * * if the Occupier of any Premises prevent the Owner thereof from obeying or carrying into effect the Provisions of this Act, any Justice to whom Application is made in this Behalf shall, by Order in Writing (which may be according to the Form contained in the Schedule (F.) (b.) to this Act annexed, or to the like Effect), require such Occupier to permit the Execution of the Works required to be executed, provided that the same appear to such Justice to be such as are necessary for the Purpose of obeying or carrying into effect the Provisions of this Act; and if within a reasonable Time after the making of such Order the Occupier against whom it is made refuse to comply therewith, he shall be liable to a Penalty not exceeding Five Pounds for every Day afterwards during the Continuance of such Refusal; and if the Occupier of any Premises, when requested by or on behalf of the Local Board of Health to state the Name of the Owner of the Premises occupied by him, shall refuse or wilfully omit to disclose or wilfully mis-state the same, any Justice may, on Oath made before him of such Request, and Refusal, Omission, or Mis-statement, summon the Party to appear before him or some other Justice at a Time and Place to be appointed in such Summons, and if after being so summoned he neglect or refuse to attend at the Time and Place so appointed, or if he do not show good Cause for such Refusal, or if such wilful Omission or Mis-statement be proved, the Justice before whom the Party is so summoned may impose upon the Offender a Penalty not exceeding Five Pounds.

Occupiers to dis-
close Owners
Name.

Forms in Sched-
ule may be used.

CXXXI. And be it enacted, That the several Forms in the Schedule (D.) to this Act annexed, or Forms to the like Effect, with such Alterations and Additions (if any) as Circumstances require, may be used for any of the Purposes of this Act for which such Forms are applicable, and such Forms shall accordingly be to all Intents sufficient for such Purposes, and it shall not be necessary for any of such Purposes to use any other Form.

Section 147 of 11
& 12 Vict. c. 63.
incorporated
with this Act.

CXXXII. And be it enacted, That the Section numbered 147 of "The Public Health Act, 1848," shall be incorporated with this Act.

(a.) The first clause of this section is incorporated by sec. 20 ante. page. 32.

(b.) This form is incorporated in Schedule E. to this Act, post.

CXLVII. And be it enacted, That every Person who upon any Examination on Oath under the Provisions of this Act shall wilfully and corruptly give false Evidence shall be liable to the Penalties inflicted upon Persons guilty of wilful and corrupt Perjury.

(Sections.
133. 134.)
False Evidence
punishable as
Perjury.

CXXXIII. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to prejudice, lessen, or defeat any Right, Interest, Property, Power, Privilege, Franchise, or Authority of the Lord of the Manor of *Cheltenham* aforesaid, or Owner of the Fairs and Markets within the said Town, except as expressly appears by this Act, but all and every such Rights, Interest, Property, Powers, Privileges, Franchises, and Authorities may be exercised and enjoyed, in as full and ample Manner, to all Intents and Purposes, as the same were exercised and enjoyed before the passing of this Act.

This Act not to
prejudice the
Rights of the
Lord of the
Manor.

CXXXIV. And be it enacted, That the Power of making Compensation for Damages herein-before contained shall extend to authorize the Commissioners to give full Compensation to the Owners and Occupiers of any Lands, whether situate in the Borough or elsewhere, for any Damage or Injury sustained by them respectively by reason of the Sewers or Drains in the Borough which now open into either of the said Brooks continuing so to discharge their Contents thereinto, until the Main Sewers and Tanks authorized to be made by this Act shall be completed: Provided always, that if the Commissioners shall refuse or neglect to admit the Claim of any such Owner or Occupier to Compensation for any Damage or Injury alleged to be sustained by him from the Cause aforesaid, and such Owner or Occupier shall bring or institute any Action or Proceeding to try the Question of such his Right against any Person whom he shall deem liable in Law to answer in Damages for any such alleged Injury thereto, the Commissioners may, if they shall so think fit, at the Request of the Person against whom any such Action or Proceeding shall be brought or instituted, defend the same in his Name, or compromise, adjust by Arbitration, or otherwise settle any such Action or Proceeding, upon such Terms and in such Manner as they may think reasonable; and any Sum or Sums of Money which the Commissioners shall disburse or incur in or about the Payment of any such Compensation, or the Trial or Settlement of any such Claim, and all Damages, Costs, Charges, and Expenses incident thereto respectively, shall be defrayed by means of a Rate or Rates in nature of a District Rate to be from Time to Time levied by the Commissioners upon the Owners and Oc-

Compensation
for sewerage into
the Brooks.

Power to try
Question of
Right.

Expenses to be
levied on Dis-
tricts.

(Sections.

135. 136.)

cupiers of Houses and Premises contributing to the Sewerage or Drainage by which the Injury or Damage or alleged Injury or Damage is occasioned as aforesaid, or such of them as in the Judgment of the Commissioners would be liable in Law to answer for the same.

Sections 154 and
155 of 10 & 11
Vic. c. 34 in-
corporated with
this Act.

CXXXV. And be it enacted, That the Section numbered 154 of "The Towns Improvement Clauses Act, 1847," shall be incorporated herewith :

Respecting ex-
isting Contracts
for Building.

CLIV. Nothing herein or in the special Act contained shall extend to avoid any Agreement in Writing entered into before the passing of the special Act for erecting or altering any Building, but the same shall be performed with such Alterations as may be rendered necessary by this or the special Act, and as if such Alterations had been stipulated for in such Agreement; and the Difference between the Cost of the Work according to the Agreement and the Cost of such Work as executed according to the Provisions of this and the special Act shall be ascertained by the Parties to the respective Agreements, and paid for or deducted as the Case may require; and if the said Parties do not agree upon the Amount of such Difference, the same shall, on the Request of either Party (Notice being given to the other), be decided by the Surveyor to the Commissioners, and for his Trouble in making such Decision each of the said Parties shall pay to the said Surveyor such Sum not exceeding One Pound, and to be disposed of for such Purposes of the special Act, as the Commissioners shall direct.

Also the Section numbered 155 of the same Act.

Respecting
building con-
tracts in leases.

CLV. Nothing herein or in the special Act contained shall affect any Lease or Agreement for a Lease whereby any Person may be bound to erect Buildings upon any Building Ground within the Limits of the special Act, but the Buildings mentioned in such Lease or Agreement shall be built according to the Conditions which may be rendered necessary by this or the special Act, in the same Manner as if this and the special Act had been passed and in operation at the Time of making such Lease or Agreement, and the same had been made subject thereto, and that without either Party being entitled to any Compensation.

Expenses of Act.

CXXXVI. And be it enacted, That all the Expenses of obtaining (a.) this Act and incident thereto shall be paid by the Commissioners, and shall be charged to the Borough Rate.

(a.) By Section 7 of the 13 and 14 Vic. c. 21, it is enacted—"That every Act made after the Commencement of this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of as such, unless the contrary be expressly provided and declared by such Act."

The SCHEDULES to which the foregoing Act refers.

SCHEDULE A. (a.)

WARDS IN THE BOROUGH, AND NAMES OF FIRST COMMISSIONERS.

Wards and
Names of first
Commissioners.
East Ward.

1. *East Ward*

Is included within the following Boundaries; that is to say, bounded on the South by a Line running from the Point where Pittville Street meets High Street; Eastward along High Street to the Boundary of the said Parish; bounded on the West by a Line running from the Point where Pittville Street meets High Street; Northward along Pittville Street, thence along Portland Street, and thence along the Cleeve and Evesham Road to the Boundary of the said Parish; and further by a Line running along the Boundary of the Parish from the Eastern Extremity of the above defined Southern Boundary Line to the Northern Extremity of the above defined Western Boundary Line.

FIRST COMMISSIONERS:---Charles Lloyd Harford, Stephen Edward Comyn, Thomas Sheldon, James Humphris (Builder), William Hollis (Gunsmith), and William Buckle.

2. *North Ward.*

North Ward.

Is included within the following Boundaries; that is to say, bounded on the South by a Line running from the Point where Pittville Street meets High Street; Westward along High Street, and thence along the Tewkesbury Road to the Boundary of the said Parish; and bounded on the East by the Western Boundary Line of the East Ward; and further bounded by a Line running along the Boundary of the said Parish from the Western Extremity of the above defined Southern Boundary Line to the Northern Extremity of the above defined Eastern Boundary Line.

FIRST COMMISSIONERS.----John Brend Winterbotham, John Yearsley, Samuel Shedden, George James Engall, James Leighton, and Richard Hulbert.

(a.) See section 6 page 7 ante.

*(Schedule A.)**3. West Ward***West Ward.**

Is included within the following Boundaries; that is to say, bounded on the North by a Line running from the Point where Saint George's Place meets High Street; Westward along High Street, thence along the Tewkesbury Road to the Boundary of the Parish; and bounded on the East by a Line running from a Point where Saint George's Place meets High Street; Southward along Saint George's Place, thence along Saint George's Parade, thence along Bays Hill Road to the Point where that Road meets Queen's Parade to the Point where the same meets Old Well Lane; thence Northward along Old Well Lane to the Point where the same meets Lansdown or New Gloucester Road; thence South-westward along the Lansdown or New Gloucester Road, thence along Old Gloucester Road to the Boundary of the said Parish; and further bounded by a Line running along the Boundary of the said Parish from the Western Extremity of the above defined Northern Boundary Line to the South-western Extremity of the above defined Eastern Boundary Line.

FIRST COMMISSIONERS.---William Nash Skillicorne, James Agg Gardner, James Fallon, Robert Burland Hudleston, John Bubb (Solicitor), and George Rowe.

Middle Ward*4. Middle Ward*

Is included within the following Boundaries; that is to say, bounded on the North by a Line running from the Point where Rodney Terrace meets High Street, Westward along High Street to the Point where the same meets Saint George's Place; and bounded on the West by the Eastern Boundary Line of the West Ward; and bounded on the East by a Line running from the Point where Rodney Terrace meets High Street, Southward along Rodney Terrace; thence along Trafalgar Lane to the Point where Trafalgar Lane meets Montpellier Spa Buildings Road; thence Eastward along Montpellier Spa Buildings Road to the Point where the same meets Montpellier Parade; thence Southward along Montpellier Parade to the Point where the same meets Montpellier Terrace; thence Westward along Montpellier Terrace to the Point where the same meets Suffolk Parade; thence Southward along Suffolk Parade; thence along Great Norwood Street to the Boundary of the Parish; and further bounded by a Line running along the Boundary of the said Parish from the

South-western Extremity of the defined Western Boundary Line to the Southern Extremity of the above defined Eastern Boundary Line. (*Schedules A. and B.*)

FIRST COMMISSIONERS :—William Henry Henney, Edward Warner Shewell, William Ridler, William Hasell, Henry Davies, and James Webster of Hatherly Court.

5. *South Ward*

South Ward.

Is included within the following Boundaries; that is to say, bounded on the North by a Line running from the Point where Rodney Terrace meets High Street, Eastward along High Street to the Boundary of the said Parish; and bounded on the West by the Eastern Boundary Line of the Middle Ward; and further bounded by a Line running along the Boundary of the said Parish from the Western Extremity of the above defined Northern Boundary Line to the Southern Extremity of the above defined Western Boundary Line.

FIRST COMMISSIONERS :—Robert Sole Lingwood, Baynham Jones (junior), John Beckinsale, George Schonswar (junior), Frederick Monro, and Charles Paul.

SCHEDULE B.

Schedule B.

No. I.

No. 1.

Voting Paper. (a.)

Voting Paper.

Referred to in Section 12 of this Act is that in Schedule A. to Commissioners Clauses Act, 1847.

No. II.

No. 2.

Appointment of Proxy. (b.)

Appointment of Proxy.

Cheltenham Improvement Act, 1852.

Borough of Cheltenham

Ward.

(a.) This form follows section 23 of the Commissioners Clauses Act, ante, section 10 page 12 and referred to section 12, ante, page 15.

(b.) See section 12, ante, page 16.

MARKET AND FAIR TOLLS.

(Schedules
B. and C.)

I, the undersigned, being entitled to vote as Owner [*or, in the Case of a Female Occupier, say, being a Female, and entitled to vote as Occupier,*] for Improvement Commissioners for this Ward in respect of the Property [*here describe the Property*] do authorize _____ to vote for me as my Proxy at the Election of _____ Commissioners to be had on the _____ Day of _____ next.
Signed by me, this _____ Day of _____

Schedule B.
No. 3.

No. III. (a.)

Declaration of
Signature of
Proxy Appoint-
ment.*Declaration of Signature of Proxy Appointment.*

I _____ of _____ do solemnly and sincerely declare, That the Instrument purporting to be an Appointment by me of Proxy to vote for Improvement Commissioners for the Borough of Cheltenham hereunto annexed was signed by me on the _____ Day of _____ being the _____ Day of the Date thereof; and I make this solemn Declaration conscientiously believing the same to be true, and by virtue of the Provisions of an Act made and passed in the Fifth and Sixth Years of the Reign of King William the Fourth, intituled "An Act to repeal an Act of the present Session of Parliament, intituled 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of voluntary and extra-judicial Oaths and Affidavits;' and to make other Provisions in lieu thereof." Taken and made before me, One of Her Majesty's Justices of the Peace in and for the County of _____ at _____ therein, this _____ Day of _____ 18 _____.

Schedule C.

SCHEDULE C. (b.)

Market Tolls.

Tables of Tolls of Markets and Fairs;

Showing the several Tolls, Duties, Rents, and Stallage payable in the Markets if purchased by the Commissioners.

In the Beast Market.

(a.) See sec. 12, ante, page 16. (b.) See sec. 87 ante page 132.

MARKET AND FAIR TOLLS.

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(Schedule C.)

	s.	d.	
For every Horse, Mare, or Gelding bought or exposed to Sale-	-	0	4
For every Colt, Filly, or Foal	-	0	2
For every Bull, Steer, Cow, or Heifer	-	0	3
For every Calf	-	0	1
For every Mule or Ass	-	0	1
For every Sheep or Lamb	-	0	1
For every Swine or Hog	-	0	1
For every Sucking Pig	-	0	0½

Market Tolls

And the following additional Tolls to be paid by the Buyers:—

For every Horse, Mare, or Gelding sold and entered in the Toll Book, an additional Toll on such Entry, to be paid by the Buyer, of -	-	0	4
For every Horse, Mare, or Gelding sold and not entered in the Toll Book	-	0	2
For every Colt, Filly, or Foal	-	0	1
For every Bull, Steer, Cow, Heifer, or other such Cattle	0	2	
For every Sheep or Lamb	-	0	0½
For every Swine or Hog, except Sucking Pigs	-	0	0½

In the Hay Market.

For every Waggon Load of Hay, Straw, or Fodder brought or exposed to Sale	-	0	8
For every Cart Load of Hay, Straw, or Fodder	-	0	4

In the other Markets.

From the Occupiers of each Butcher's Stall, according to the Size and Dimensions of the same; viz. for each Superficial Square Foot thereof:—

If the Hall and Passage in front thereof be covered over from the Weather,—			
If taken by the Year, not exceeding the Sum of	-	6	8
By the Half Year, not exceeding the Sum of	-	3	4
By the Quarter, not exceeding the Sum of	-	1	8
If otherwise taken or occupied, for each Market Day or other Day in the Week	-	0	1½
If the Stall and Passage in front thereof be not covered over as above,—			
If taken by the Year, not exceeding the Sum of	-	6	0
By the Half Year, not exceeding	-	3	0
By the Quarter, not exceeding	-	1	6

(Schedule C.)

	s.	d.
Market Tolls.		
If otherwise taken or occupied, for each Market Day or other Day in the Week - - -	0	1½
From the Occupier of each Stand for Vegetables raised above the Ground, with progressive Steps or Benches, according to the Size and Dimensions of the same; viz. for each Superficial Square Foot thereof, if the Stand or Passage in front be covered in from the Weather,—		
If taken by the Year, not exceeding - - -	5	0
By the Half Year, not exceeding - - -	2	6
By the Quarter, not exceeding - - -	1	3
If otherwise taken, for every Market Day or other Day in the Week, not exceeding - - -	5	0
If the Stand and Passage in front be not covered over as above,—		
If taken by the Year, not exceeding - - -	4	0
By the Half Year, not exceeding - - -	2	0
By the Quarter, not exceeding - - -	1	0
If otherwise taken or occupied, for each Market Day or other Day in the Week - - -	0	1
From the Occupier of each other Stand or Bench, accord- ing to the Size and Dimensions of the same; viz. for each Superficial Square Foot thereof,—		
If the Stand or Bench, and the Passage in front thereof, be covered over from the Weather,—		
If taken by the Year, not exceeding - - -	5	0
By the Half Year, not exceeding - - -	2	6
By the Quarter, not exceeding - - -	1	3
If otherwise taken, for each Market Day or other Day in the Week, not exceeding - - -	0	1½
If the Stand or Bench, and the Passage in front thereof, be not covered over as above,—		
If taken by the Year, not exceeding - - -	4	0
By the Half Year, not exceeding - - -	2	0
By the Quarter, not exceeding - - -	1	0
If otherwise taken, for each Market Day or other Day in the Week, not exceeding - - -	0	1
From the Occupier of each Compartment or Space on the Surface of the Ground, according to the Size and Di- mensions of the same; viz. for each Superficial Square Foot thereof,—		

If the Compartment or Space, and the Passage adjoining the same, be covered over from the Weather,—			(Schedules C. & D.)
			Market Tolls.
If taken by the Year, not exceeding	-	- 3 10	
By the Half Year, not exceeding	-	- 1 11	
By the Quarter, not exceeding	-	- 0 11½	
If otherwise taken, for each Market Day or other Day in the Week, not exceeding			
	-	- 0 0½	

From every other Person exposing any Article, Matter or Thing for Sale in the said Markets, and not occupying any Stall, Stand, or Bench, nor any defined Compartment or Space on the Surface of the Ground,—

If the Spot where such Person shall stand be covered over from the Weather,—

For every Basket, Hamper, Parcel, or Quantity of such Article, Matter, or Thing not containing more than One Bushel, not exceeding			
-	-	- 0	1½
For every additional Half Bushel			
-	-	- 0	0½

If the Spot be not covered over as above,—

For every Basket, Hamper, Parcel, or Quantity of such Article, Matter, or Thing not containing more than One Bushel			
-	-	- 0	1
For every additional Bushel			
-	-	- 0	0½

The above-mentioned Tolls and Stallage in the said Markets and Fairs to be paid and payable in respect of the Occupation of any Stall, Bench, Compartment, or Space of Ground, as well by the original Taker or Occupier thereof for a Part or Portion of the Day or Space of Time as by any subsequent Taker or Occupier of the same for any other Part or Portion of the Day or Space of Time.

SCHEDULE D. (a.)

Schedule D.

Form of Notice of Intention to make a Public Rate.

Notice of Intention to make a Public Rate.

Cheltenham Improvement Act, 1852.

Take notice, That the Commissioners intend, at a Meeting to be held on the Day of to make a Borough Rate [or otherwise, as the Case may be,] for

(a.) See Sec. 115, page 144, ante, and sec. 131, page 180, ante.

Dated this _____ Day of _____
Commissioners Clerk.

Form of Public Rate. (a.)

A Borough Rate on Cheltenham Parish [*or a District Sewer Rate on, &c. as the Case may be*], made this Day of

No.	Surname and Christian Name of Owner.	Surname and Christian Name of Occupier.	Description of Property rated.	Name or Situation of Property.	Gross estimated Rental.	Rateable Value.	Rate at in the Pound.

A.B. } Two of the Cheltenham Improvement
C.D. } Commissioners.

Form of Publication of Rate. (b.)

Take notice, That the Commissioners have this Day made
a [] Rate of [] in the Pound on all the

(b.) See section 103 of the Public Health Act, ante, section 120, page 151.

FORMS RELATING TO RATES.

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rateable Property in [Cheltenham].

(Schedule D.)

Dated this Day of

Commissioners Clerk.

Form of Notice of Amendment of Rate by Increase, or inserting a new Name. (a.) Notice of Amendment of Rate.

Cheltenham Improvement Act, 1852.

Take notice, That the [*the District*] Rate in made on the Day of has been amended by increasing the Amount of your Rate from £ to £ , or by inserting your Name therein as rated at £

Dated this Day of

To A.B., &c.

Commissioners Clerk.

Form of Improvement Rate. (b.)

Cheltenham Improvement Act, 1852.

A Private Improvement Rate on [each of] the under-mentioned Premises for Private Improvement, Expenses, Interest, and Expenses of Collection, duly made this Day of

Improvement Rate.

Name of Owner.	Name of Occupier.	Description of Premises.	Situation of Premises.	Nature of Improvement.	Yearly Amount to be paid.	Periods for Payments.
		House.	No. Street	Filling up Cesspools and making Drains.	£ s d.	March in every Year from to both inclusive.
				Making Waterclosets and Drains.		May every Year from to both inclusive.

Common Seal of the Commissioners.

A.B. } Two of the Cheltenham Improvement
C.D. } Commissioners.

The Premises may be described by Reference to the Commissioners Map, or by Plan annexed, or otherwise.

(a.) See section 102 of the Public Health Act, ante, section 120, page 150.

(b.) See section 90 of the Public Health Act, ante, section 117, page 145.

(Schedules
D. & E.)
Warrant of
Distress.

Form of Warrant of Distress. (a.)

Cheltenham Improvement Act, 1852.

To the Chief Constable and other the Constables of the County of Gloucester, and the Collectors of any of the Rates for any of the Purposes of the above Act [*or otherwise*]:—

Gloucestershire to wit.—You, every or any of you, are in Her Majesty's Name commanded to levy from *A.B.* [*or A.B., C.D., and*] the Sum of £ [or the several Sums respectively set opposite to their Names in the Margin] by Distress and Sale of his [*or their respective*] Goods and Chattels; and if within the Space of Six Days after the making of any such Distress the said Sum distrained for, together with the reasonable Costs of taking and keeping the said Distress, shall not be paid, then that you sell the said Goods distrained of the Defaulter, and out of the Proceeds pay to the Treasurer of the Cheltenham Improvement Commissioners the said Sum distrained for, and retain your reasonable Charges of taking, keeping, and selling such Distress, rendering to the Defaulter the Overplus (if any), on Demand; and if sufficient Distress cannot be found of the Goods and Chattels of such Defaulter, you are to certify the same to me, with this Warrant, that further Proceedings may be had therein as the Law directs.

The said Sum or Sums being due from the said above-named Person [*or Persons*] to the Cheltenham Improvement Commissioners in respect [*here state generally on what Account the Sum is due, or several Sums are due, as, for instance, the repairing by the Commissioners of the dangerous Premises, No. Street in Cheltenham, of which the said "A.B. is the Owner," and for further instance, the Amount duly assessed on him by a Borough Rate bearing Date on or about the* Day of [*or otherwise, as the Case may be,*] and for Costs incurred by his [*or their*] Default on Nonpayment of the said Debt.

Given under my Hand and Seal, this Day of
N.O., Justice of the Peace for, &c.

Schedule E.

SCHEDULE E.

The Forms referred to in Sections 120, 122, 127, and 130 of this Act are those contained in the Schedules to the Public Health Act, 1848, hereunder specified:—

(a.) See sections 108 and 104 of the Public Health Act, ante, section 130, pages 151 and 153 and section 121, pages 152 to 164 inclusive, &c. See next Schedule E.

CONVICTION, DISTRESS WARRANT.

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(Schedule E)

Form of Conviction.

Schedule (E.) to the Public Health Act, 1848.

SCHEDULE (E.) (a.)

Form of Conviction.

Conviction.

County of [or Borough, &c.] } BE it remembered, That on the
to wit. } Day of in the Year of our
me [or us] } Lord A.B. is convicted before
One [or Two] of Her Majesty's Justices
of the Peace in and for the County [or Borough, &c.] of
[here describe the Offence generally, and the Time and Place when
and where committed, in the Words of this Act, or as near there-
unto as may be], contrary to the Public Health Act, 1848 ; and I
[or we] do adjudge that the said A.B. hath forfeited for his said
Offence the Sum of [Amount of Penalty adjudged], and that he
do pay to C.D. the further Sum of as and for his
Costs in this Behalf.
Given under my Hand and Seal [or our Hands and Seals], the Day
and Year first above written.

(Signed) (L.S.)
(L.S.)

Form of Distress Warrant against single Defaulters.

Schedule (D.) to Public Health Act, 1848.

SCHEDULE (D.) (b.)

Form of Distress Warrant.

Distress War-
rant.

To A.B., Collector of Rates, and to all Constables and Peace
Officers.

County of [or Borough, &c.] } WHEREAS Complaint hath been duly made
to wit. } by A.B., One of the Collectors for the
District of under and by virtue
of the Public Health Act, 1848, that C.D. of, &c. hath not paid
and hath refused to pay the Sum of duly assessed
upon him in and by a certain Rate bearing Date on or about the
Day of in the Year of our Lord One
thousand eight hundred and although the same hath
been duly demanded of him : And whereas it appears to me E.F.
Esquire, One of Her Majesty's Justices of the Peace in and for
the said County [or Borough, &c.], as well upon the Oath of the
said A.B. as otherwise, that the said Sum of hath

(a.) See section 130 of the Public Health Act, ante, section 127, page 174.

(b.) See section 104 of the Public Health Act, ante, section 120 page 152.

ORDER ON OCCUPIER AS TO WORKS.

(Schedule E)

been duly demanded in Writing by him from the said *C.D.*, and that the said hath refused to pay the same for the Space of Fourteen Days after such Demand made, and doth refuse to pay the same: And whereas the said *C.D.* hath been duly summoned to appear before me to show Cause why the said Sum should not be paid by him, and not having shown to me any sufficient Cause why the same should not be paid; These are therefore, in Her Majesty's Name, to command you to levy the said Sum of and also the Sum of the Cost of proceeding to obtain this Warrant, by Distress and Sale of the Goods and Chattels of the said *C.D.*, and your reasonable Charges of taking, keeping, and selling the said Distress, rendering to him the Overplus (if any), on Demand; and if sufficient Distress cannot be found of the Goods and Chattels of the said *C.D.*, that then you certify the same to me, together with this Warrant, to the end that such further Proceedings may be had therein as to the Law doth appertain.

Given under my Hand and Seal, the
in the Year of our Lord

Day of

(Signed) *E.F.* (L.S.)

Order on Occupier to permit Execution of Works by Owner.

Form of Order on Occupier to permit Execution of Works by Owner.

Schedule (F.) to Public Health Act, 1848.

SCHEDULE. (F.) (a.)

Form of Order to permit Execution of Works by Owners.

County of } WHEREAS Complaint hath been made to me,
[or Borough, &c.] } *E.F.* Esquire, One of Her Majesty's Jus-
to wit. } tices of the Peace in and for the County
[or Borough, &c.], of by *A.B.*, Owner, within the
Meaning of the Public Health Act, 1848, of certain Premises, to
wit, a House [*as the Case may be*] situate in Street
[*as the Case may be*] in the Parish of in the said
County [or Borough, &c.], that *C.D.*, the Occupier of the said
Premises, doth prevent the said *A.B.* from obeying and carrying
into effect the Provisions of the said Act in this, to wit, that he
the said *C.D.* doth prevent the said *A.B.* from [*here describe the*
Works generally, according to Circumstances, for instance, thus:
constructing and laying down, in connexion with the said House,
a covered Drain, so as to communicate with a [Sewer or Drain] of

(a.) See section 148 of the Public Health Act, incorporated by section 130, ante page 180.

the Local Board of Health of the District of _____ [or a (Schedule E)
 Sewer, &c. which the Local Board of Health of the District of
 are entitled to use, *as the Case may require*], such
 Sewer being within One hundred Feet of the said House] : And
 whereas the said *C.D.*, having been duly summoned to answer the
 the said Complaint, and not having shown sufficient Cause against
 the same, and it appearing to me that the said Works are neces-
 sary for the Purpose of enabling the said *A.B.* to obey and carry
 into effect the Provisions of the said Act, I do hereby order that
 the said *C.D.* do permit the said *A.B.* to execute the same in the
 Manner required by the said Act.

Given under my Hand and Seal, this _____ Day of
 in the Year of our Lord One thousand eight hundred and
E.F. (L.S.)

Form of Mortgage.

Schedule (B.) to Public Health Act, 1848.

SCHEDULE (B.) (a.)

Form of Mortgage of Rates.

Mortgage of
Rates.

By virtue of the Public Health Act, 1848, the Local Board of Health
 for the District of _____ in consideration of the Sum
 of _____ paid to the Treasurer of the said District by
A.B. of _____ for the Purposes of the said Act, do grant
 and assign unto the said *A.B.*, his Executors, Administrators,
 and Assigns, such Proportion of the Rates arising or accruing by
 virtue of the said Act from [*the Rates mortgaged*] as the said Sum
 of _____ doth or shall bear to the whole Sum which is
 or shall be borrowed upon the Credit of the said Rates, to hold
 to the said *A.B.*, his Executors, Administrators, and Assigns,
 from the Day of the Date hereof until the said Sum of
 with Interest at the Rate of _____ per Centum per Annum
 for the same, shall be fully paid and satisfied : And it is hereby
 declared, that the said Principal Sum shall be repaid on the
 Day of _____ at [*Place of Payment*]. Dated this
 Day of _____ One thousand eight hundred and _____

[*In case of a Noncorporate District, to be signed by Five Members at
 least of the Local Board of Health, and sealed with their Seal ; in
 case of a Corporate District, to be sealed with the Common Seal.*]

(a.) See Section 111 of the Public Health Act ante sec. 122 page 166.

STREETS MADE PUBLIC.

*(Schedules
E. and F.)**Form of Transfer of Mortgage.*

Schedule (C.) to Public Health Act, 1848.

SCHEDULE (C.) (a.)

Transfer of
Mortgage.*Form of Transfer of Mortgage.*

I *A. B.* of _____ in consideration of the Sum of _____
 paid to me by *C.D.* of _____ do hereby
 transfer to the said *C.D.*, his Executors, Administrators, and
 Assigns, a certain Mortgage bearing Date the _____ Day
 of _____ and made by the Local Board of Health for the
 District of _____ for securing the Sum of _____
 and Interest thereon at _____ per Centum per Annum [or
*if such Transfer be by Endorsement on the Mortgage, insert, instead
 of the Words immediately following the Word "Assigns," the*
within Security], and all my Right, Estate, and Interest in and to
 the Money thereby secured, and in and to the Rates thereby as-
 signed. In witness whereof I have hereunto set my Hand and
 Seal, this _____ Day of _____ One thousand eight
 hundred and _____

A.B. (L.S.)

Schedule F.

SCHEDULE F. (b.)

Streets at Mont-
pellier and Lans-
downe dedicated
to the Public.

*List of Streets dedicated to the Public on, over, near, or leading to the
 Montpellier and Lansdowne Estates.*

Montpellier Terrace Road, from the Bath Road to the New
 Painswick Road.

Roads leading out of Montpellier Terrace to Suffolk Square.
 Montpellier Parade and its Continuation alongside Vittoria
 Walk.

Road in front of Montpellier Spa Place and Montpellier Spa
 Buildings, and thence to the Bath Road.

Montpellier Avenue.

Road leading from thence in front of the Montpellier Pump-
 room to Montpellier Terrace Road.

Lansdowne Crescent Road, and Road at the Back of such
 Crescent and at the Back of Lansdowne Place.

Road communicating between Lansdowne Place and Lans-
 downe Crescent.

Lansdowne Terrace Road and Back Road to such Terrace.

(a.) See sec. 112 of the Public Health Act ante sec. 123 page 166.

(b.) See section 48 page 66 ante.

Road in continuation of Lansdowne Terrace as far as Christ Church. *(Schedule F.)*

Malvern Place Road and its Continuation in front of Lansdowne Parade to the Gloucester Road.

Douro Villas Road and its Continuation in front of Northwich Place up to the Christ Church Road, and Back Road to the same.

Road in front of Tivoli Place.

Tivoli Street, Lypiatt Street, and Hatherley Street, and Road communicating between such Streets.

Hatherley Place Road as far as Houses are built on its Side, and Back Road to the same.

All the Footpaths adjacent to the before-mentioned Roads, except that called the Montpellier Promenade.

END OF LOCAL ACT.

APPENDIX.

NO. 1.

PUBLIC BATHS AND WASH-HOUSES ACTS.

By the 69th Section of "The Cheltenham Improvement Act, 1852," ante, page 96 it is enacted that "the Commissioners may exercise in the Borough all and every or any of the Powers conferred by an Act passed in the 9th and 10th Year of the present reign, intituled An Act to encourage the Establishment of Public Baths and Wash-houses, and an Act passed in the 10th and 11th year of the same Reign, to amend the same, given to Vestries, Churchwardens, and Commissioners appointed under that Act, or any of them; and the expenses of carrying this power into execution, shall be defrayed out of such rates under this Act, and the monies to be received, and the income to be derived from baths, wash-houses, and open bathing places, shall be carried to such fund under this Act, as the Commissioners shall think expedient and just."

The above section does not expressly take away the rights, &c. conferred on the Ratepayers, Churchwardens, and Vestries to carry the Baths and Wash-houses Acts into operation, and as the Commissioners may think proper by themselves to carry these Acts into execution, it is thought best to give them in full in the Appendix, rather than embody them in the Act after the 69th section, which does not incorporate the Acts, more especially as the 4th section of the Baths and Wash-houses Amendment Act incorporates therewith "the Lands Clauses Consolidation Act, 1845," of which last-mentioned Act all but 23 sections out of 153 are incorporated in the Local Act by sections 26, 28, and 66, pages 41, 44, and 86 ante. See the Lands Clauses Consolidation Act, post, Appendix, No. 6.

ANNO NONO & DECIMO VICTORIÆ REGINÆ.

CAP LXXIV.

AN ACT TO ENCOURAGE THE ESTABLISHMENT OF PUBLIC BATHS
AND WASH-HOUSES. [26th August 1846.]

WHEREAS it is desirable for the Health, Comfort, and Welfare
of the Inhabitants of Towns and populous Districts to en-

Appendix

No. 1.

9. & 10 Vict.
c. 74.Act may be
adopted in cer-
tain Boroughs
and Parishes.Interpretation
of Act.

courage the Establishment therein of public Baths and Wash-houses and open Bathing Places: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That this Act may be adopted for any incorporated Borough in *England* which is regulated under an Act passed in the Sixth Year of the Reign of His late Majesty, to provide for the Regulation of Municipal Corporations, or any Charter granted in pursuance of the said Act, or any Act passed for the Amendment thereof, and also, with the Approval of One of Her Majesty's Principal Secretaries of State, for any Parish in *England* not within any such incorporated Borough.

II. And be it enacted, That in this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; that is to say,

(a.) "Parish" shall mean every Place having separate Overseers of the Poor, and separately maintaining its own Poor:

"Borough" shall mean City, Borough, Port, Cinque Port, or Town Corporate:

(a.) "Rate-payers" shall mean such of the Persons for the Time being assessed to and paying Rates for the Relief of the Poor of the Parish as for the Time being shall be duly qualified to vote for the Election of Overseers for the Parish:

"Churchwardens" shall mean also Chapelwardens, or other Persons discharging the Duties of Churchwardens:

"Overseers" shall mean also any Person authorized and required to make and collect or cause to be collected the Rate for the Relief of the Poor of the Parish, and acting instead of Overseers of the Poor:

(a.) "Vestry" shall mean the Inhabitants of the Parish lawfully assembled in Vestry, or for any of the Purposes for which Vestries are holden, except in those Parishes in which there is a Select Vestry elected under an Act passed in the Fifty-ninth Year of the Reign of King *George* the Third, intituled *An Act to amend the Laws for the Relief of the Poor*, or elected under an Act passed in the Second Year of the Reign of His late Majesty, intituled *An Act for the better Regulation of Vestries, and for the Appointment of Auditors of Accounts, in certain Parishes of England and Wales*, or elected under the Provisions of any local Act of Parliament for the Government of any Parish by Vestries, in which Parishes it shall mean such Select Vestry:

50 G. 3. c. 12.

1 & 2 W. 4. c. 60.

(a.) These words by the Amendment Act, next after this Act, post, have different Interpretations given to them as they are to be read in this Act.

"Commissioners" shall mean the Commissioners appointed in accordance with this Act for any Parish, and for the Time being in Office and acting as such Commissioners :

*Appendix
No. 1.
9 & 10 Vict.
c. 74.*

"Clerk" shall mean, as regards an incorporated Borough, the Town Clerk of such Borough ; and, as regards a Parish, the Clerk appointed pursuant to this Act by the Commissioners :

"Justice" shall mean Justice of the Peace for the County, Riding, Division, Liberty, Borough, or Place where the Matter requiring the Cognizance of Justices shall arise :

"Lands" shall mean Lands, Tenements, and Hereditaments, of whatsoever Nature or Tenure :

Words importing the Masculine Gender shall include the Feminine :

Words of the Plural Number shall include the Singular, and Words of the Singular Number shall include the Plural.

III. And be it enacted, That the Council of any such Borough as aforesaid may, if they think fit, determine that this Act shall be adopted for such Borough, and then and in such Case such of the Provisions of this Act as are applicable in that Behalf shall thenceforth take effect and come into operation in such Borough, and this Act shall be carried into execution in such Borough in accordance with such Provisions and the Laws for the Time being in force relating to the Municipal Corporation of such Borough.

*Council of any
Borough may
adopt the Pro-
visions contained
in this Act, if
they think fit.*

IV. And be it enacted, That the Expenses of carrying this Act into execution in any such Borough in which the Council shall have resolved to adopt this Act for their Borough shall be chargeable upon and paid out of the Borough Fund, and for that Purpose the Council may levy with and as Part of the Borough Rate, or by a separate Rate to be assessed, levied, paid, and recovered in like Manner and with the like Powers and Remedies in all respects as the Borough Rate, such Sums of Money as shall be from Time to Time necessary for defraying such Expenses, and shall apply the same accordingly as if the Expence of carrying this Act into execution were an Expence necessarily incurred in carrying into effect the Provisions of the said Act of the Sixth Year of the Reign of His late Majesty ; and the Income arising from the Baths and Wash-houses and open Bathing Places in any Borough shall be paid to the Credit of the Borough Fund thereof, and the Council shall keep distinct Accounts of their Receipts, Payments, Credits, and Liabilities, with reference to the Execution of this Act, to be called "The public Baths and Wash-houses Account."

*Expences of
carrying this
Act into Execu-
tion shall be
charged upon
the Borough
Fund, and In-
come arising
carried to same.*

V. And be it enacted, That upon the Requisition in Writing of Ten or more Rate-payers of any such Parish as aforesaid, not being within any such incorporated Borough, the Churchwardens or other Persons to whom it belongs to convene Meetings of the Vestry in such Parish shall convene a Meeting of the Vestry for the special Purpose of de-

*On the Reques-
tion of Ten Rate-
payers, Church-
wardens, &c. to
convene Vestry
Meeting to deter-
mine whether
this Act shall be
adopted.*

Appendix
No. 1.
 9 & 10 Vic.
 c. 74.

If Vestry resolve to adopt the Act, a Copy of Resolution to be sent to Secretary of State, &c.

No Resolution deemed to be carried unless Two Thirds vote for it.

Where Act adopted Vestry to appoint Commissioners for carrying the same into execution.

Resignation of Commissioners.

Vacancies to be filled up by Vestry.

Meetings of the Commissioners.

Special Meetings of Commissioners.

Quorum of Meetings of Commissioners.

termining whether this Act shall be adopted for the Parish, after Public Notice of such Vestry, and the Place and Hour of holding the same, and the special Purpose thereof, given in the usual Manner in which Notice of the Meetings of the Vestry is given at least Seven Days before the Day to be appointed for holding such Vestry; and if thereupon it shall be resolved by the Vestry that this Act ought to be adopted for the Parish, a Copy of such Resolution extracted from the Minutes of the Vestry, and signed by the Chairman, shall be sent to One of Her Majesty's Principal Secretaries of State for his Approval, and as soon as such Approval shall have been signified in Writing under the Hand of any such Secretary of State, such of the Provisions of this Act as are applicable in that Behalf shall thenceforth take effect and come into operation in the Parish: Provided always, that no such Resolution of the Vestry shall be deemed to be carried unless at least Two Thirds of the Number of Votes given on the Question according to the usual Manner of voting at such Vestry shall have been given for such Resolution.

VI. And be it enacted, That in such Case the Vestry shall appoint not less than Three nor more than Seven Persons, being Rate-payers of the Parish, Commissioners for carrying this Act into execution in the Parish, of whom One Third, or as nearly as may be One Third (to be determined among themselves), shall go out of Office yearly, but shall be eligible for immediate Re-appointment.

VII. And be it enacted, That any Commissioner may at any Time resign his Office as a Commissioner on giving Seven Days Notice in Writing of his Intention to resign to the Clerk, and also to the Churchwardens.

VIII. And be it enacted, That any Vacancies in the Commissionership may be filled up by the Vestry when and as the Vestry shall think fit.

IX. And be it enacted, That the Commissioners shall meet at least once in every Calendar Month at their Office, or some other convenient Place previously publicly notified.

X. And be it enacted, That the Commissioners may meet at such other Time as at any previous Meeting shall be determined upon, and it shall be at all Times competent for any One Commissioner, by Writing under his Hand, to summon, with at least Forty-eight Hours Notice, the Commissioners for any special Purpose therein named, and to meet at such Times as shall be therein named.

XI. And be it enacted, That at all Meetings of the Commissioners any Number not less than One Third of the whole Number when more than Three Commissioners shall have been appointed, and when only Three Commissioners shall have been appointed then any Number not less than Two Commissioners, shall be a sufficient Number for tran-

sacting Business, and for exercising all the Powers of the Commissioners.

*Appendix
No. 1.
9 & 10 Vic.
c. 74.*

Commissioners may appoint and remove Officers, &c.

XII. And be it enacted, That the Commissioners shall appoint, and may remove at pleasure, a Clerk and such other Officers and Servants as shall be necessary for effecting the Purposes of this Act, and, with the Approval of the Vestry, may appoint reasonable Salaries, Wages, and Allowances for such Clerk, Officers, and Servants, and, when necessary, may hire and rent a sufficient Office for holding their Meetings and transacting their Business, and may agree for and pay a reasonable Rent for such Office.

XIII. And be it enacted, That all Orders and Proceedings of the Commissioners shall be entered in Books, to be kept by them for that Purpose, and shall be signed by the Commissioners, or any Two of them; and all such Orders and Proceedings so entered, and purporting to be so signed, shall be deemed to be original Orders and Proceedings; and such Books may be produced and read as Evidence of all such Orders and Proceedings upon any Appeal, Trial, Information, or other Proceeding, civil or criminal, and in any Court of Law or Equity whatsoever.

Minutes of Proceedings of Commissioners to be entered in a Book.

XIV. And be it enacted, That the Commissioners shall provide and keep Books in which shall be entered true and regular Accounts of all Sums of Money received and paid for or on account of the Purposes of this Act in the Parish, and of all Liabilities incurred by them for such Purposes, and of the several Purposes for which such Sums of Money shall have been paid and such Liabilities shall have been incurred; and such Books shall at all reasonable Times be open to the Examination of every Commissioner, Churchwarden, Overseer, and Rate-payer, without Fee or Reward, and they respectively may take Copies of or Extracts from such Books, or any Part thereof, without paying for the same; and in case the Commissioners, or any of them, or any of their Officers or Servants having the Custody of the said Books, being thereunto reasonably requested, shall refuse to permit or shall not permit any Churchwarden, Overseer, or Rate-payer to examine the same, or take any such Copy or Extract, every Commissioner, Officer, or Servant so offending shall for every such Offence forfeit any sum not exceeding Five Pounds.

Commissioners to keep Accounts, which shall be open to Inspection.

Penalty for refusing to allow Inspection.

XV. And be it enacted, That the Vestry shall yearly appoint Two Persons, not being Commissioners, to be Auditors of the Accounts of the Commissioners, and at such Time in the Month of *March* in every Year after the Adoption of this Act for the Parish as the Vestry shall appoint the Commissioners shall produce to the Auditors their Accounts, with sufficient Vouchers for all Monies received and paid, and the Auditors shall examine such Accounts and Vouchers, and report thereon to the Vestry.

Auditors to be appointed yearly, who shall examine the Accounts and report to Vestries.

XVI. And be it enacted, That the Expences of carrying this Act into execution in any Parish not within any such incorporated Borough

Expenses of executing Act in any Parish to be paid out of the Poor's Rate.

Appendix
No. 1. to such Amount as shall be from Time to Time sanctioned by the
9 & 10 Vic. Vestry shall be chargeable upon and paid out of the Monies to be raised
c. 74. or applicable for the Relief of the Poor of the Parish.

Overseers to
 levy, as part of
 the Poor's Rate,
 such Sums as
 Vestry shall
 deem necessary
 to pay Expences.

XVII. And be it enacted, That for defraying the Expences which shall have been or shall be incurred in carrying this Act into execution in the Parish the Vestry may and shall from Time to Time order the Overseers to levy with and as Part of the Rate for the Relief of the Poor of the Parish such Sums as the Vestry shall deem necessary, and the Amount thereof shall accordingly be assessed, levied, paid, and recovered in like Manner, and with the like Powers and Remedies in all respects, as such Rate, and shall be paid by the Overseers, according to the Order of the Vestry, to such Person as shall be appointed by the Commissioners to receive the same, and his Receipt shall be a sufficient Discharge to the Overseers for the same, and shall be allowed accordingly in passing their Accounts.

Monies raised,
 and the Income
 arising from
 Baths, &c. in the
 Parish, to be ap-
 plied towards
 defraying Ex-
 pences.

XVIII. And be it enacted, That the Money raised for defraying the Expences of carrying this Act into execution, and the Income arising from the Baths and Wash-houses and open Bathing Places in the Parish, shall be applied by the Commissioners in or toward defraying the Expences of carrying this Act into execution in the Parish; and whenever, after Repayment of all Monies borrowed for the Purpose of carrying this Act into execution in the Parish, and the Interest thereof, and after satisfying all the Liabilities of the Commissioners with reference to the Execution of this Act in the Parish, and providing such a Balance as shall be deemed by the Commissioners sufficient to meet their probable Liabilities during the then next Year, there shall be at the Time of holding the Meeting of the Vestry at which the yearly Report of the Auditors shall be produced any surplus Money at the Disposal of the Commissioners, they shall pay the same to the Overseers in aid of the Rate for the Relief of the Poor of the Parish.

Vestries of Two
 or more Parishes
 may concur in
 carrying this Act
 into execution,
 subject to the
 Approval of Sec-
 retary of State.

XIX. And be it enacted, That the Vestries of any Two or more neighbouring Parishes which shall have respectively adopted this Act may concur in carrying this Act into execution in such Parishes in such Manner not inconsistent with the Provisions of this Act, and for such Time, as they shall mutually agree; and for that Purpose it may, with the Approval of such Secretary of State, be agreed on between such Vestries that any public Baths and Wash-houses and open Bathing Places shall be erected and made in any One of such Parishes, to be vested in the Commissioners thereof, and that the Expences of carrying this Act into Execution with reference to the same shall be borne by such Parishes in such Proportions as such Vestries shall mutually agree, and the Proportion for each of such Parishes of such Expences shall be chargeable upon and paid out of the Monies to be raised for the Relief of the Poor of the same respective Parish accord-

Appendix
No. 1.9 & 10 Vic.
c. 74.

ingly; and, according and subject to the Terms which shall have been so agreed on, the Commissioners appointed for each of such Parishes shall, in the Management of the said Baths and Wash-houses and open Bathing Places, form One Body of Commissioners, and shall act accordingly in the Execution of this Act, and the Accounts and Vouchers of such Commissioners shall be examined and reported on by the Auditors of each of such Parishes; and the surplus Money at the Disposal as aforesaid of such Commissioners shall be paid to the Overseers of such Parishes respectively in the same Proportions as those in which such Parishes shall be liable to such Expences.

XX. And for the more easy Execution of the Purposes of this Act, be it enacted, That the Commissioners of every such Parish shall be a Body Corporate, with perpetual Succession, which shall not be deemed to be interrupted by any partial or total Vacancy from Time to Time in their Office, by the Name of "The Commissioners for public Baths and Wash-houses in the Parish of () in the County of ()," and by that Name may sue and be sued in all Courts, and before all Justices and others, and may have and use a Common Seal, and by that Name may take, hold, and convey any Lands vested in them for the Purposes of this Act.

Incorporation of
Commissioners.

XXI. And be it enacted, That for carrying this Act into execution in any Borough or Parish respectively, the Council, with the Approval of the Commissioners of Her Majesty's Treasury, and the Commissioners, with the Sanction of the Vestry, and also with the Approval of the Commissioners of Her Majesty's Treasury, may from Time to Time borrow at Interest, on the Security of a Mortgage, as the Case may be, of the Borough Fund, or of the Rates for the Relief of the Poor of the Parish, the Money which may be by them respectively required, and shall apply the Monies so borrowed accordingly.

Councils, &c.
may borrow
Money for the
Purposes of the
Act, with the
Approval of the
Treasury.

XXII. And be it enacted, That the Commissioners for carrying into execution an Act passed in the Second Session of the Fifth Year of the Reign of Her Majesty, intituled *An Act to authorize the Advance of Money out of the Consolidated Fund to a limited Amount for carrying on Public Works and Fisheries and Employment of the Poor, and to amend the Acts authorizing the Issue of Exchequer Bills for the like Purposes*, may from Time to Time make to the Council of any such Borough, or Commissioners of any such Parish respectively, for the Purposes of this Act, any Loan under the Provisions of the recited Act or the several Acts therein recited or referred to, upon security of the Borough Fund, or the Rates for the Relief of the Poor of the Parish, as the Case may be.

The Public
Works Loan
Commissioners
may advance
Money for the
Purposes of this
Act.

XXIII. And be it enacted, That the Provisions of the Companies
Clauses Consolidation Act, 1845, (a.) with respect to the borrowing of

8 & 9 Vict. c. 16.
incorporated
with this Act for
certain Purposes.

(a.) These provisions are set forth post Appendix No. 5. The expence of carrying into execution the powers contained in this Act is to be defrayed out of such Rates as the Commissioners may think fit; see section 69 page 96 ante; the Provisions of the Companies Clauses Act with respect

Appendix

- No. 1.* Money by any Company on Mortgage, and the Provisions of the same
 9 & 10 Vic. Act with respect to the Accountability of the Officers of the Company,
c. 74. and the Provisions of the same Act with respect to the making of Bye
 Laws, subject to the Provisions herein-after contained, and the Pro-
 visions of the same Act with respect to the Recovery of Damages not
 specially provided for, and Penalties, so far as such Provisions may
 respectively be applicable to the Purposes of this Act, shall be
 respectively incorporated with this Act; and the Expressions in such
 Provisions applicable to the Company and the Directors shall apply as
 regards a Borough to the Council, and as regards a Parish to the Com-
 missioners; and all Deeds and Writings which under such Provisions
 are required or directed to be made or executed under the Common
 Seal of the Company shall in the Application of such Provisions to
 this Act be deemed to be required or directed to be made or executed
 as regards a Borough under the Common Seal of the Mayor, Aldermen,
 and Burgesses, and as regards a Parish under the Common Seal of the
 Commissioners; and so much of such Provisions as are applicable to
 the "Secretary of the Company" shall apply to the Clerk; and in such
 of the said Provisions as relate to the Inspection of Accounts as re-
 gards a Borough the Burgesses, and as regards a Parish the Rate-
 payers, shall have the Privileges of Shareholders. (b.)

Council may
 appropriate,
 with Consent of,
 the Treasury,
 Lands vested in
 the Mayor, &c.

XXIV. And be it enacted, That in any such Borough the Council
 with the Approval of the Commissioners of Her Majesty's Treasury,
 may from Time to Time appropriate for the Purposes of this Act in
 the Borough any Lands vested in the Mayor, Aldermen, and Burgesses;
 and in any such Parish the Commissioners appointed under this Act,

to "borrowing money," here incorporated, will not therefore be available by the Commissioners;
 the Provisions of the same Act, as to "accountability of Officers," and with respect to the making
 of Bye-Laws also here incorporated, may be cumulative to the powers, contained in the Local Act,
 see sec. 21 ante page 33 et seq. by which the Commissioners have full power to appoint and pay
 &c. such Officers, &c. "as may be necessary and proper for the efficient execution of their Act,"
 and make Bye-laws regulating their conduct, &c. and by the same section, incorporating sec. 39 of
 the Public Health Act, page 34 ante, the "accountability of Officers" is provided for in almost simi-
 lar terms as in the Companies' Act, and see page 39 ante as to the manner of making Bye-laws
 imposing Penalties, &c. See note to sec. 30 post as to "Recovering Penalties," and Appeals. These
 Provisions from the Companies' Clauses Act are incorporated with the Lodging Houses Act sec. 33
 14 and 15 Vict. c. 34 post Appendix No. 2.

(b.) The only section in the parts incorporated from the Companies' Clauses Consolidation Act
 relating to the inspection of accounts is the 55th, allowing Mortgagees and Bond Creditors (not
 shareholders) inspection of the Books of account. By the 45th Section shareholders may inspect, &c.
 the Register of Mortgages and Bonds. The provision "with respect to the keeping of accounts, and
 the right of inspection thereof by the shareholders" are not incorporated. They include sections
 115 to 119 both inclusive. The 115th requires the company to keep accounts; the 116th provides
 for the balance of the accounts; the 117th provides for the Production to and inspection, &c. by
 the shareholders, of the accounts before balancing them, and one month after, and at other times
 by order of three directors; the 118th provides for production of the balance sheet and auditor's
 report at the Company's meeting, and the 119th section directs the Company to appoint a book-
 keeper who is to allow any shareholder to inspect and take copies, &c. from the same at the pre-
 scribed times.

with the Approval of the Vestry and of the Guardians of the Poor of the Parish (if any), and of the Poor Law Commissioners for *England* and *Wales*, may from Time to Time appropriate for the Purposes of this Act in the Parish any lands vested in such Guardians, or in the Churchwardens, or in the Churchwardens and Overseers of the Parish, or in any Feoffees, Trustees, or others, for the general Benefit of the Parish; and in any such Parish the Commissioners, with the Approval of the Vestry, and in any such Borough the Council, may from Time to Time contract for the purchasing or renting of any Lands necessary for the Purposes of this Act, and the Property therein shall be vested in the Mayor, Aldermen, and Burgesses in the Case of a Borough, or of the Commissioners in the Case of a Parish.

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No. 1.*

*9 & 10 Vic.
c. 74.*

Commissioners may, with Approval of Vestry, &c. appropriate Lands belonging to the Parish;

Or contract for Purchase of the same.

XXV. And be it enacted, That the Council and Commissioners respectively may from Time to Time, on any Lands so appropriated, purchased, or rented, or contracted so to be respectively, erect any Buildings suitable for public Baths and Wash-houses, and as to such Wash-houses either with or without open Drying Grounds, and make any open Bathing Places, and convert any Buildings into public Baths and Wash-houses, and may from Time to Time alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite Furniture, Fittings, and Conveniences.

Councils and Commissioners may erect, &c. public Baths and Wash-houses and open Bathing Places.

XXVI. And be it enacted, That the Council and Commissioners respectively may from Time to Time enter into any Contract with any Persons or Companies for building and making, and for altering, enlarging, repairing, and improving, such public Baths and Wash-houses and open Bathing Places, and for supplying the same respectively with Water, and for lighting the same respectively, and for fitting up the same respectively, and for furnishing any Materials and Things, and for executing and doing any other Works and Things necessary for the Purposes of this Act; which Contracts respectively shall specify the several Works and things to be executed, furnished, and done, and the Prices to be paid for the same, and the Times when the Works and Things are to be executed, furnished, and done, and the Penalties to be suffered in Cases of Non-performance; and all such Contracts, or true Copies thereof, shall be entered in Books to be kept for that Purpose: Provided always, that no Contract above the Value or Sum of One hundred Pounds shall be entered into by the Council or the Commissioners, for the Purposes of this Act, unless previous to the making thereof Fourteen Days Notice shall be given in One or more of the public Newspapers published in the County in which the Borough or Parish shall be situated, expressing the Intention of entering into such Contract, in order that any Person willing to undertake the same may make Proposals for that Purpose, to be offered to the Council or Commissioners at a certain Time and Place in such Notice to be mentioned,

Councils and Commissioners may enter into Contracts for the Purposes of this Act.

No Contract above £1000 to be entered into without Notice.

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No. 1.
9 & 10 Vic.

c. 74.
Council or Com-
missioners may
purchase exist-
ing Baths, &c.

but it shall not be incumbent on the Council or Commissioners to contract with the Person offering the lowest Price.

XXVII. And be it enacted, That the Council of any such Borough, and the Commissioners, with the Approval of the Vestry of any such Parish, may, if they shall think fit, contract for the Purchase or Lease of any Baths and Wash-houses already or hereafter to be built and provided in any such Borough or Parish, and appropriate the same to the Purposes of this Act, with such Additions or Alterations as they shall respectively deem necessary; and the Trustees of any public Baths and Wash-houses which have been already or may hereafter be built or provided in any such Borough or Parish by private Subscriptions or otherwise may, with the Consent of the Council of any such Borough, or with the Consent of the Commissioners, and Approval of the Vestry of any such Parish, and with the Consent of a Majority of the Committee or other Persons by whom they were appointed Trustees, sell or lease the said Baths and Wash-houses to the said Council or Commissioners respectively, or make over to them the Management of such Baths and Wash-houses; and in all such Cases the Baths and Wash-houses so purchased or leased, or of which the Management has been so made over, shall be deemed to be within the Provisions of this Act as fully as if they had been built or provided by the said Council or Commissioners; and the Property therein shall be vested in the Mayor, Aldermen, and Burgesses in the Case of a Borough, or in the Commissioners in the Case of a Parish.

Power to Water
and Gas Com-
panies to supply
Water and Gas
to Baths, &c.

XXVIII. And be it enacted, That any Commissioners of Waterworks, Trustees of Waterworks, Water Companies, Canal Companies, Gas Companies, and other Corporations, Bodies, and Persons having the Management of any Waterworks, Canals, Reservoirs, Wells, Springs, and Streams of Water, and Gas Works respectively, may in their Discretion grant and furnish Supplies of Water or Gas for such public Baths and Wash-houses and open Bathing Places either without Charge or on such other favourable Terms as they shall think fit.

Councillors and
Commissioners
not to be person-
ally liable.

XXIX. And be it enacted, That nothing in this Act contained shall render any Member of the Council of any Borough, or any Commissioner, personally, or any of their Lands, Goods, Chattels, or Monies (other than such Lands, Goods, Chattels or Monies as may be vested in or under the Management or Control of the Council or Commissioners respectively in pursuance of this Act), liable to the Payment of any Sum of money as or by way of Compensation or Satisfaction for or in respect of any thing done or suffered in due pursuance of this Act.

Persons may ap-
peal against Or-
ders of Councils
and Commis-
sioners.

XXX. And be it enacted, That every Person who shall feel aggrieved by any Bye Law, Order, Direction, or Appointment of or by the Council or Commissioners shall have the like Power of Appeal to the

General Quarter Sessions as under the Provisions of the Companies
 Clauses Consolidation Act, 1845, incorporated with this Act, he might
 have if feeling aggrieved by any Determination of any Justice with
 respect to any Penalty. (a.)

*Appendix
 No. 1.*

9. & 10 *Vict.*
 c. 74.

XXXI. And be it enacted, That the Council, with the Approval of
 the Commissioners of Her Majesty's Treasury, and the Commissioners
 appointed under this Act, with the Approval of the Vestry, and of the
 Commissioners of Her Majesty's Treasury respectively, may from Time
 to Time make Sale and dispose of any Lands vested in the Mayor,
 Aldermen, and Burgesses, or in the Commissioners respectively for
 the Purposes of this Act, and apply the Proceeds in or towards the Pur-
 chase of other Lands better adapted for such Purposes, and may, with
 the like Approval, exchange any Lands so vested, and either with or
 without paying or receiving any Money for Equality of Exchange, for
 any other Lands better adapted for such Purposes, and the Mayor,
 Aldermen, and Burgesses, or the Commissioners, may convey the Lands
 so sold or exchanged accordingly.

*Council, &c. em-
 powered to make
 Sale & Exchange
 of Lands, with
 Consent.*

XXXII. And be it enacted, That whenever any public Baths or
 Wash-houses or open Bathing Places which shall have been for Seven
 Years or upwards established under the Authority of this Act shall be
 determined by the Council or by the Vestry, in accordance with a pre-
 vious Recommendation of the Commissioners, to be unnecessary or too
 expensive to be kept up, the Council or Commissioners, with the Ap-
 proval of the Commissioners of Her Majesty's Treasury, may sell the
 same for the best Price that can reasonably be obtained for the same,
 and the Mayor, Aldermen, and Burgesses, or the Commissioners, shall
 convey the same accordingly; and the Purchase Money shall be paid
 to such Person as the Council or Commissioners shall appoint, and his
 Receipt shall be a sufficient Discharge for the same; and the net Pro-
 ceeds of such Sale shall be paid to the Credit of the Borough Fund, or
 of the Rate for the Relief of the Poor of the Parish.

*When Baths, &c.
 are considered
 too Expensive
 they may, with
 Approval of Treas-
 ury, be sold,
 and Proceeds of
 Sale carried to
 Borough Fund
 or Poor's Rate.*

XXXIII. And be it enacted, That the general Management, Regula-
 tion, and Control of the public Baths and Wash-houses and open Bathing
 Places established under this Act shall, subject to the Provisions of
 this Act, be as to any Borough vested in and exercised by the Council,
 and as to any Parish vested in and exercised by the Commissioners.

*Management to
 be vested in
 Councils and
 Parish Com-
 missioners.*

XXXIV. And be it enacted, That the Bye Laws which the Council
 and Commissioners respectively may from Time to Time make, alter,

*Council, &c.
 may make Bye
 Laws for regu-
 lating the Use*

(a.) See these provisions post Appendix No. 5. But as neither the powers to Justices, &c. to re-
 cover penalties, &c., nor the appeal clauses are incorporated into the Local Act, (the Commis-
 sioners only being empowered to exercise the powers "given to Vestries Churchwardens and Com-
 missioners" under these Public Baths Acts,) it seems doubtful if they are available. It may be
 contended, the orders, &c. made and penalties, &c. imposed and payable under the Public Baths
 Acts, may be enforced and recovered under the Local Act, and for such Purposes the Public Baths
 Acts may be considered as forming part of the Local Act. See the clauses of the Local Act, pages
 172, and 177, ante.

Appendix

No. 1.
9 & 10 Vic.
c. 74.
of Baths and
Wash-houses,
&c., and Charges
thereat.

Bye Laws to be
approved by the
Secretary of
State.

Copies or ab-
stracts of Bye
Laws to be hung
up in every Bath
Room, &c.

Proportion of
Baths for the
labouring
Classes.

Charges to be
fixed by Councils
and Commis-
sioners not ex-
ceeding those in
Schedule B.

As to recovery of
Charges at
Wash-houses.

repeal, and enforce shall include such Bye Laws for the Management, Use, and Regulation of the public Baths and Wash-houses and open Bathing Places, and of the Persons resorting thereto respectively, and for determining from Time to Time the Charges for the Use of such Baths and Wash-houses and open Bathing Places respectively, as the Council and Commissioners respectively shall think fit, and they respectively may appoint any Penalty not exceeding Five Pounds for any and every Breach, whether by their Officers or Servants, or by other Persons, of any Bye Law made by them respectively; and such Bye Laws shall make sufficient Provision for the several Purposes respectively expressed in the Schedule (A.) to this Act: Provided always, that no Bye Law made under the Authority of this Act shall be of any legal Force until the same shall have received the Approval of One of Her Majesty's Principal Secretaries of State.

XXXV. And be it enacted, That a printed Copy or sufficient Abstract of the Bye Laws relating to the Use of the Baths and open Bathing Places respectively shall be put up in every Bath Room and open Bathing Place respectively; and a printed Copy or sufficient Abstract of the Bye Laws relating to the Use of the Wash-houses shall be put up in some convenient Place near every Washing Tub or Trough, or every Pair of Washing Tubs or Troughs, in every Wash-house.

XXXVI. And be it enacted, That the Number of Baths for the labouring Classes in any Building or Buildings under the Management of the same Council or Commissioners shall not be less than Twice the Number of the Baths of any higher Class if but One, or of all the Baths of any higher Classes if more than One, in the same Building or Buildings.

XXXVII. (a.) And be it enacted, That the Council and the Commissioners respectively may from Time to Time make such reasonable Charges for the Use of the Baths and Wash-houses and open Bathing Places respectively provided under this Act as they shall think fit, but not exceeding such Charges as are mentioned in the Schedule (B.) annexed to this Act, unless for the Use of any Washing Tub or Trough for more than Two Hours in any one Day, for which any Charges may be made which the Council or Commissioners respectively shall deem reasonable.

XXXVIII. And be it enacted, That for the Recovery of the Charges at such Wash-houses the Officers, Servants, and others having the Management thereof may detain the Clothes brought to be washed or other Goods and Chattels of any Person refusing to pay the Charge to which such Person may be liable, or any Part thereof, till full Payment thereof be made, and in case such Payment be not made within Seven

(a.) By sections 6 and 7 of the 10 & 11 Vic. c. 61, and the Schedule thereto, this section and the Schedule to this Act are repealed and other charges provided. See post, next Act.

Days may sell such Clothes, Goods, and Chattels, or any of them, returning the surplus Proceeds of such Sale, after deducting the unpaid Charge and the Expenses of such Detention and Sale, and the unsold Articles, if any, on demand, to such Person.

*Appendix
No. 1.
9 & 10 Vic.
c. 74.*

XXXIX. And be it enacted, That if any Clerk or other Officer, or any Servant who shall be in anywise employed by any Council or Commissioners in pursuance of this Act, shall exact or accept any Fee or Reward whatsoever for or on account of any thing done or forborne or to be done or forborne in pursuance of this Act, or on any account whatsoever relative to putting this Act into execution, other than such Salaries, Wages, or Allowances as shall have been appointed by the Council or Commissioners, or shall in anywise be concerned or interested in any Bargain or Contract made by the Council or Commissioners for or on account of any thing done or forborne or to be done or forborne in pursuance of this Act, or on any account whatsoever relative to the putting this Act into execution, or if any Person during the Time he holds the Office of Member of the Council or Commissioner shall exact or accept any such Fee or Reward, or shall accept or hold any Office or Place of Trust created by virtue of this Act, or be concerned directly or indirectly in any such Bargain or Contract, every such Person so offending shall be incapable of ever serving or being employed under this Act, and shall for every such Offence also forfeit the Sum of Fifty Pounds.

*Penalty for
Council, Com-
missioners, or
Officers taking
Fees beyond
Salaries, or being
interested in
Contracts.*

XL. And be it enacted, That such Part of any Penalty recovered under this Act as shall not be awarded to the Informer shall be paid to the Credit as regards a Borough of the Borough Fund, and as regards a Parish of the Rate for the Relief of the Poor thereof.

*Application of
Penalties.*

XLI. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

*Act may be
amended, &c.*

SCHEDULES referred to by the foregoing Act.

SCHEDULE (A.)

Bye Laws to be made in all Cases.

For securing that the Baths and Wash-houses and open Bathing Places shall be under the due Management and Control of the Officers, Servants, or others appointed or employed in that Behalf by the Council or Commissioners.

For securing adequate Privacy to Persons using the Baths and Wash-houses and open Bathing Places, and Security against Accidents to Persons using the open Bathing Places.

Appendix
No. 1.

- 9 & 10 Vic. c. 74. For securing that Men and Boys above Eight Years old shall bathe separately from Women and Girls and Children under Eight Years old.
- For preventing Damage, Disturbance, Interruption, and indecent and offensive Language and Behaviour, and Nuisances.
- For determining the Duties of the Officers, Servants, and others appointed by the Council or Commissioners.
- In Parishes. For regulating the Procedure of the Commissioners.

SCHEDULE (B.) (a.)

Maximum Charges during the First Seven Years after the Establishments are opened for public Use ; and after such Seven Years, except only so long after such Seven Years as higher Charges may be necessary for defraying the current Expences of the Establishments.

Baths for the labouring Classes, supplied with clean Water for every Bather, or for several Children bathing together :

For One Person above Eight Years old, including the Use of One clean Towel :

Cold Bath	-	-	-	One Penny.
Warm Bath	-	-	-	Two-pence.

For several Children, not exceeding Four, including the Use of One clean Towel for every Child :

Cold Bath	-	-	-	Two-pence.
Warm Bath	-	-	-	Four-pence.

Wash-houses for the labouring Classes, supplied with Conveniences for washing and drying Clothes and other Articles :

For the Use by One Person of One Washing Tub or Trough, or One Pair of Washing Tubs or Troughs :

For One Hour only in any One Day	-	-	-	One Penny.
For Two consecutive Hours only in any One Day	-	-	-	Three-pence.

Such Charges to include the Use of the drying Apparatus for drying all the Articles washed. The Time occupied in drying not to be included in the Hour or Two Hours. A Fraction of an Hour, exceeding Five Minutes, to be reckoned One Hour.

Open Bathing Places where several Persons bathe in the same Water :

For One Person	-	-	-	One Halfpenny.
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(a.) This schedule is repealed see note (a.) ante, page 210, appendix, and a new scale of charges provided, see post, next Act.

ANNO DECIMO & UNDECIMO VICTORIÆ REGINÆ.

Appendix
No. 1.
 10 & 11 Vic.
 c. 61.

CAP. LXI.

AN ACT TO AMEND THE ACT FOR THE ESTABLISHMENT OF PUBLIC
 BATHS AND WASH-HOUSES. [2d July 1847.]

WHEREAS an Act was passed in the last Session of Parliament, intituled *An Act to encourage the Establishment of public Baths and Wash-houses*: And whereas it is expedient to afford additional Facilities for the Establishment of public Baths and Wash-houses and open Bathing Places; be it enacted, by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the recited Act, as amended by this Act, and this Act shall be construed and be carried into execution as One Act.

*Recited Act and
 this Act to be
 construed as One.*

II. And be it enacted and declared, That the following Words and Expressions in the recited Act shall have in the said Act and this Act the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction; (that is to say,)

*Interpretation of
 Expressions in
 recited Act and
 this Act.*

- “Parish” shall mean not only every Place having separate Overseers of the Poor and separately maintaining its own Poor, but also every Place maintaining its own Poor and having a Vestry:
- “Rate-payers” shall mean all Persons for the Time being assessed to and paying Rates for the Relief of the Poor of the Parish:
- “Vestry” shall mean not only a Vestry as defined in the said Act, but also any Body of Persons, by whatever Name distinguished, acting by virtue of any Act of Parliament, Prescription, Custom, or otherwise as or instead of a Vestry or Select Vestry.

III. And be it enacted, That when any Person shall have been appointed to the Office of Commissioners of Public Baths and Wash-houses for any Parish before the passing of this Act, the recited Act shall be deemed to have been duly adopted for such Parish notwithstanding that there may have been any Defect or Irregularity in or in any way concerning such Adoption; and all Acts and Proceedings of any Person in possession of the Office of such Commissioner, and acting in good Faith as such Commissioner, whether appointed before or after the passing of this Act, shall, notwithstanding his Disqualification or Want of Qualification for or any Defect or Irregularity in or in any way concerning his Appointment to such Office, be as valid and effectual as if he were duly qualified or there had not been any such Defect or Irregularity.

*Acts of Commis-
 sioners of Public
 Baths, &c. to be
 valid, notwith-
 standing Infor-
 malities.*

Appendix
No. 1.

10 & 11 Vic.
c. 61.

Incorporation of
8 & 9 Vict. c. 18.
Council, &c.
not to take
Lands, &c.
Proportion of
washing
accommodation
for Labouring
Classes.

So much of re-
cited Act as re-
gulates Charges
for Use of Baths,
&c. repealed.

Power to make
Charges for Use
of Baths, &c. not
exceeding those
in the Schedule.

Act may be
Amended, &c.

IV. And be it enacted, that the Lands (*a.*) Clauses Consolidation Act, 1845, shall be incorporated with the recited Act and this Act :
Provided always, that the Council and Commissioners respectively shall not purchase or take any Lands otherwise than by Agreement.

V. And be it enacted, That the Number of Washing Tubs, or Troughs for the Labouring Classes in any Building or Buildings under the Management of the same Council or Commissioners shall not be less than Twice the Number of the Washing Tubs or Troughs of any higher Class, if but One, or of all the higher Classes if more than One, in the same Building or Buildings.

VI. And be it enacted, That so much of the recited Act as enacts that the Council and Commissioners respectively may make such reasonable Charges for the Use of the Baths and Wash-houses and open Bathing Places as they think fit, not exceeding such Charges as are mentioned in the Schedule (B.) to that Act, shall be repealed.

VII. And be it enacted, That the Council and the Commissioners respectively may from Time to Time make such reasonable Charges for the Use of the Baths and Wash-houses and open Bathing Places provided under the recited Act and this Act respectively as they think fit, not exceeding the Charges mentioned in the Schedule annexed to this Act.

VIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

SCHEDULE to which this Act refers.

Charges for the Baths and Wash-houses and open Bathing Places.

1. BATHS FOR THE LABOURING CLASSES.

Every Bath to be supplied with clean Water for every Person bathing alone, or for several Children bathing together, and in either Case with One clean Towel for every Bather.

For One Person above Eight Years old :

Cold Bath, or cold Shower Bath, any Sum not exceeding - - - - - One Penny.

Warm Bath, or warm Shower Bath, or Vapour Bath, any Sum not exceeding - - - - - Two Pence.

For several Children not above Eight Years old, nor exceeding Four, bathing together :

Cold Bath, or cold Shower Bath, any Sum not exceeding - - - - - Two-pence.

(a) "The Lands Clauses Consolidation Act, 1845," is set forth in full see post appendix No. 6.

LODGING HOUSES ACTS.

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Warm Bath, or warm Shower Bath, or Vapour Bath, any Sum not exceeding - Four-pence. 14 & 15 Vic.

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No. 2.
c. 28.

2. BATHS OF ANY HIGHER CLASS.

Such Charges as the Council and the Commissioners respectively think fit, not exceeding in any Case Three Times the Charges above mentioned for the several Kinds of Baths for the Labouring Classes.

3. WASH-HOUSES FOR THE LABOURING CLASSES.

Every Wash-house to be supplied with Conveniences for washing and drying Clothes and other Articles.

For the Use by One Person of One Washing Tub or Trough, and of a Copper or Boiler (if any), or, where One of the Washing Tubs or Troughs shall be used as a Copper or Boiler, for the Use of One Pair of Washing Tubs or Troughs, and for the Use of the Conveniences for drying :

For One Hour only in any One Day, any Sum not exceeding - - - One Penny.

For Two Hours together, in any One Day, any Sum not exceeding - - - Three-pence.

Any Time over the Hour or Two Hours respectively, if not exceeding Five Minutes, not to be reckoned.

For Two Hours not together, or for more than Two Hours in any One Day, such Charges as the Council and the Commissioners respectively think fit.

For the Use of the washing Conveniences alone, or of the drying Conveniences alone, such Charges as the Council and the Commissioners respectively think fit, but not exceeding in either Case the Charges for the Use for the same Time of both the washing and the drying Conveniences.

4. WASH-HOUSES OF ANY HIGHER CLASS.

Such Charges as the Council and the Commissioners respectively think fit.

5. OPEN BATHING PLACES, where several Persons bathe in the same Water, for One Person One Halfpenny.

APPENDIX.

No. 2.

LODGING HOUSES ACTS.

As the Commissioners have powers and duties conferred and imposed upon them by the two following Acts, "for the well ordering of Com-

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No. 2.
14 & 15 Vict.
c. 28.

mon Lodging-houses," and "the Establishment of Lodging Houses for the Labouring classes," it is deemed that an edition of the Cheltenham Improvement Act would be defective, if it did not contain both such Acts; they are therefore inserted in full.

ANNO DECIMO QUARTO AND DECIMO QUINTO
 VICTORIÆ REGINÆ.

CAP. XXVIII.

AN ACT FOR THE WELL-ORDERING OF COMMON LODGING HOUSES.
 [24th July 1851.]

WHEREAS it would tend greatly to the Comfort and Welfare of many of Her Majesty's poorer Subjects if Provision were made for the well-ordering of Common Lodging Houses: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows; to wit,

Short Title.

I. In citing this Act for any Purpose it shall be sufficient to use the Expression "The Common Lodging Houses Act, 1851."

Interpretation of
 Terms in this
 Act.

II. The following Words and Expressions in this Act have, for the Purposes and Execution of this Act the following Meanings; to wit,

The Word "Place" includes County, Riding, Hundred, and other Division or Part of a County, City, Borough, Parish, District, and other Place whatsoever:

The Word "Borough," and the Expressions "Mayor, Aldermen, and Burgesses," and "Borough Fund," have respectively the same Meaning as in the Act for the Regulation of Municipal Corporations:

The Expression "Improvement Act" means an Act for regulating and managing the Police of, and for draining, cleansing, paving, lighting, watching, and improving a Place, and an Act for any of those Purposes:

The Expression "Common Lodging House" includes, in any Case in which only a Part of a House is used as a Common Lodging House, the Part so used of such House.

By whom the
 Act is to be
 executed.

III. This Act shall be executed as follows; to wit,

1. Within and for all or any Part of the Metropolitan Police District, by "The Commissioners of Police of the Metropolis,"

or such One of them as is from Time to Time appointed in that Behalf by One of Her Majesty's Principal Secretaries of State :

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c. 28.*

2. Within and for all and any Part of any Place not being within the Metropolitan Police District, but being now or hereafter the District of a Local Board of Health, by the Local Board of Health for the District :

3. Within and for all and any Part of any other Place not being within the Metropolitan Police District, and not being the District of a Local Board of Health, but being now or hereafter an incorporated Borough regulated under the Act for the Regulation of Municipal Corporations, or any Act for the Amendment thereof, or any Charter granted in pursuance of any such Act, by the Mayor, Aldermen, and Burgesses of the Borough acting by the Council of the Borough :

(a.) 4. Within and for all and any Part of any other Place not being within the Metropolitan Police District, and not being the District of a Local Board of Health, and not being such an incorporated Borough, but being now or hereafter the Place within the Limits of an Improvement Act, by the Commissioners, Trustees, or other Body, by whatever Name, known for executing the Improvement Act :

5. Within and for all and any Part of any other Place not being One of the Places herein-before specified, by the Justices of the Peace acting in Petty Sessions for the Place.

IV. The Expenses of and incident to the executing of this Act shall be borne and paid as follows ; to wit, *As to Expenses
of executing
this Act.*

1. With respect to the Metropolitan Police District, as Part of the general Expenses of executing the Acts for the Time being in force relating to the Metropolitan Police Force :

2. With respect to the District of a Local Board of Health, as Part of the Expenses of executing the Acts for the Time being in force relating to the Local Board of Health, and as charged upon and payable out of the Monies carried, under the Public Health Act, 1848, to the District Fund Account of the Local Board of Health :

3. With respect to an incorporated Borough, as Part of the Expenses of carrying into execution within the Borough the Provisions of the Act for the Regulation of Municipal Corporations, and as charged upon and payable out of the Borough Fund of the Borough :

4. With respect to a Place within the Limits of an Improvement Act, as Part of the general Expenses of executing that Act,

(a.) Cheltenham falls within this description.

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and as charged upon and payable out of the Monies from Time to Time applicable for those Expenses :

5. With respect to a Place in which this Act is executed by Justices in Petty Sessions, as Part of the general Expenses of the Constabewick of the Place, and as charged upon and payable out of the Monies from Time to Time applicable for those Expenses :

And the Monies from Time to Time required for the Payment of the Expenses of and incident to the Execution of this Act shall be assessed, levied, raised, recovered, and paid accordingly.

Meaning of the
Term "the local
Authority."

V. The Expression in this Act "the local Authority" means, with respect to the Purposes and Execution of this Act with respect to any Place, the Body or Person by this Act authorized to execute with respect to the Place the several Provisions of this Act.

Notice of this
Act to be given
to the Keepers of
Common Lodg-
ing Houses.

VI. Within Three Months after the passing of this Act the local Authority shall, and from Time to Time thereafter the Local Authority may, give to the Keeper of every Common Lodging House already or hereafter within the Jurisdiction under this Act of the local Authority, Notice in Writing of this Act, and shall give such Notice by leaving the same for such Keeper at the House, and shall by such Notice require the Keeper to register the House as by this Act provided, and such Notice may be in the Form in the Schedule to this Act annexed, or to the like Effect.

Registers of
Common Lodg-
ing Houses to be
kept.

VII. The local Authority shall keep a Register in which shall be entered the Names and Residences of the Keepers of all Common Lodging Houses within the Jurisdiction of the local Authority, and the Situation of every such House, and the Number of Lodgers authorized according to this Act to be received therein.

Lodgers not to
be received in
Common Lodg-
ing Houses until
registered un-
der this Act.

VIII. After One Month after the giving of such Notice to register as by this Act provided, the Keeper of any Common Lodging House or any other Person shall not receive any Lodger in such House until the same has been inspected and approved for that Purpose by some Officer appointed in that Behalf by the local Authority, and has been registered as by this Act provided.

Power to local
Authority to
make Regula-
tions respecting
Common Lodg-
ing Houses.

IX. The local Authority may from Time to Time make Regulations respecting Common Lodging Houses within its Jurisdiction for all or any of the Purposes respecting the same for which the Local Board of Health are by the Public Health Act, 1848, authorized to make Bye-laws, (a.) and for the well-ordering of such Houses, and for the Sepa-

(a.) The following is an Extract from the section 66 of the Public Health Act, giving the Local Board power to make the Bye Laws referred to in the above 9th Section. "LXVI. And be it enacted, That the said Local Board shall from Time to Time make Bye Laws, for fixing the Number of Lodgers who may be received into each House so registered, for promoting Cleanliness and Ventilation therein, and with respect to the Inspection thereof, and the Conditions and Restrictions under which such Inspection may be made;" the same section restricted Inspection to Times between 11 and 4, but that restriction is repealed by the 16th sec. of this Act post.

region of the Sexes therein: Provided always, that the Regulations made under this Act by the local Authority shall not be in force until they have been confirmed by One of Her Majesty's Principal Secretaries of State.

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X. The local Authority shall have the same Power of imposing Penalties on Offenders against the said Regulations, subject to the same Restrictions, as the Local Board with respect to Offenders against such Byelaws, (a.) and such Penalties shall be recoverable in the same Way as is provided in the said Act with respect to the Penalties imposed on Offenders against such Byelaws; (b.) and a Copy of the said Regulations, purporting to be signed by the Secretary of State, and also to be signed by the local Authority, (or to be sealed with the Seal of the same, in case it have a Seal,) shall be receivable in Evidence of such Regulations, and of the duly making and confirming thereof.

*Power to local
Authority to im-
pose Penalties
for Offences com-
mitted against
Regulations.*

XI. The Keeper of a Common Lodging House shall, when a Person in such House is ill of Fever or any infectious or contagious Disease, give immediate Notice thereof to the local Authority, or some Officer of the local Authority, and also to the Poor Law Medical Officer and the Poor Law Relieving Officer of the Union or Parish in which the Common Lodging House stands.

*Keepers of Com-
mon Lodging
Houses to give
Notice of Fever,
&c. therein.*

XII. The Keeper of a Common Lodging House, and every other Person having or acting in the Care or Management thereof, shall, at all Times when required by any Officer of the local Authority, give him free Access to such House or any Part thereof.

*As to Inspection
of Common
Lodging Houses.*

XIII. The Keeper of a Common Lodging House shall thoroughly cleanse all the Rooms, Passages, Stairs, Floors, Windows, Doors, Walls, Ceilings, Privies, Cesspools, and Drains thereof, to the Satisfaction of and so often as shall be required by or in accordance with any Regulation or Byelaw of the local Authority, and shall well and sufficiently, and to the like Satisfaction, limewash the Walls and Ceilings thereof in the First Week of each of the Months of *April* and *October* in every Year.

*As to cleansing
of Common
Lodging Houses.*

XIV. If the Keeper of a Common Lodging House, or any other Person having or acting in the Care or Management thereof, offend against any of the Provisions of this Act, or any of the Byelaws or Regulations made in pursuance of this Act, or if any Person in any

*Penalty for
Offences against
this Act.*

(a.) The Powers of imposing penalties on Offenders against Bye Laws are contained in section 115 of the Public Health Act, which Section is incorporated with the Local Act by sec. 25, ante, p. 39, and see the same section 25 as to making, printing, and publishing such Bye Laws; and sec. 24, p. 39, as to Commissioners using a common seal, the impression of which will be sufficient authentication of Bye Laws made under this Common Lodging House Act, though by the Local Act it would seem Five Commissioners must sign other Bye Laws—see note to sec. 115 of the Health Act incorporated by section 25, ante, p. 39.

(b.) The sections in the Public Health Act which provide for the Recovery of these Penalties, are the 129, 130, 131, 132, and 133, and all these sections are incorporated into the Local Act by section 127, ante, p. 173 et seq.

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c. 28.

Common Lodging House be confined to his Bed for Forty-eight Hours by Fever or any infectious or contagious Disease, without the Keeper of such House giving Notice thereof as required by this Act, every Person so offending shall for every such Offence be liable to a Penalty not exceeding Five Pounds, and to a further Penalty not exceeding Forty Shillings for every Day during which the Offence continues: Provided always, that this Act shall not exempt any Person from any Penalty or other Liability to which he may be subject irrespective of this Act.

Recovery of
Penalties.

XV. The Clauses and Provisions of the Railways Clauses Consolidation Act, 1845, "with respect to the Recovery of Damages not specially provided for, and of Penalties, and to the Determination of any other Matter referred to Justices," are for the Purposes and Execution of this Act incorporated with this Act. (*a.*)

General Powers
of local Author-
ity, &c.

XVI. The local Authority, and all Justices, Constables, and others, shall respectively have full Jurisdiction, Powers, Authorities, and Indemnities for executing the several Provisions of this Act; and the Restrictions (*b.*) of the Public Health Act, 1848, as to the Hours within which Common Lodging Houses may be entered by Persons authorized by a Local Board of Health, shall not apply to this Act.

Act not to extend
to the City of
London;

XVII. That this Act shall not extend to the City of *London* or the Liberties thereof.

Nor to Scotland.

XVIII. That nothing in this Act shall extend to *Scotland*.

SCHEDULE.

FORM OF NOTICE.

TAKE notice, That on the [] Day of [] an Act called "The Common Lodging Houses Act, 1851," was passed, and that before the [] Day of [] you, being the Keeper of a Common Lodging House within [*here state the Place over which the Jurisdiction of the local Authority giving the Notice extends*], must have your Common Lodging House registered, and that the Register is to be kept at [*here state where the Register is to be kept*], and that if you do not have your Common Lodging House so registered you will be liable to a Penalty not exceeding Five Pounds for

(*a.*) These clauses and provisions are inserted post, and as to damages, penalties, &c. connected with the Common Lodging Houses Act must be followed (see Appendix No. 4) supposing they differ from the Local Act.

(*b.*) These hours were between 11 in the forenoon and 4 in the afternoon, but the section 66 of the Public Health Act prescribing such hours is not incorporated in the Local Act, and sec. 12 of this Act gives the power of access as unlimited.

every Lodger whom you receive in your Common Lodging House while it is not so registered ; and that on your applying to [*here give the Name and Address of the Person to keep the Register*] he will register your Common Lodging House free of all Charge to you. Dated [§c.].

*Appendix
No. 2.
14 & 15 Vic.
c. 34.*

ANNO DECIMO QUARTO & DECIMO QUINTO
VICTORIÆ REGINÆ.

CAP. XXXIV.

AN ACT TO ENCOURAGE THE ESTABLISHMENT OF LODGING HOUSES
FOR THE LABOURING CLASSES. [24th July 1851.]

WHEREAS it is desirable, for the Health, Comfort, and Welfare of the Inhabitants of Towns and populous Districts, to encourage the Establishment therein of well-ordered Lodging Houses for the Labouring Classes: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

I. That in citing this Act for any Purpose it shall be sufficient to use the Expression "The Labouring Classes' Lodging Houses Act, 1851." Short Title of Act.

II. That this Act may be adopted for any incorporated Borough in *England* regulated under an Act passed in the Sixth Year of the Reign of His late Majesty, to provide for the Regulation of Municipal Corporations, or any Charter granted in pursuance of the said Act, or any Act passed for the Amendment thereof, and also for any Place being the District of any Local Board of Health regulated under the Public Health Act, 1848, or any Act passed for the Amendment thereof, and also for any Place being the District within the Limits of any Act for the paving, lighting, watching, draining, or otherwise improving of such Place, (a.) and also, with the Approval of One of Her Majesty's Principal Secretaries of State, for any Parish in *England*, having, according to the then last Census, a Population of not less than Ten thousand, or being a Parish in any such incorporated Borough, having, according to the then last Census, a Population of not less than Ten thousand, and also with the like Approval for each of several Parishes as by this Act in that Behalf provided.

Act may be
adopted in cer-
tain Boroughs
and Parishes.

(a.) Cheltenham comes under this description.

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No. 2.

14 & 15 Vic.
c. 34.

Interpretation
of Terms.

III. That in this Act the following Words and Expressions shall have the several Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction ; that is to say,

“Parish” shall mean every Place maintaining its own Poor, and having a Vestry :

“Borough” shall mean City, Borough, Port, Cinque Port, or Town Corporate :

“District” shall mean any Place being the District of such a Local Board of Health, and shall also mean any Place being the District within the Limits of such an Improvement Act :

“Ratepayers” shall mean all Persons for the Time being assessed to and paying Rates for the Relief of the Poor of the Parish :

“Churchwardens” shall mean also Chapelwardens or other Persons discharging the Duties of Churchwardens :

“Overseers” shall mean also any Persons authorized and required to make and collect or cause to be collected the Rate for the Relief of the Poor of the Parish, and acting instead of Overseers of the Poor :

“Vestry” shall mean the Inhabitants of the Parish lawfully assembled in Vestry, or for any of the Purposes for which Vestries are holden, except in those Parishes in which there is a Select Vestry elected under an Act passed in the Fifty-ninth Year of the Reign of King George the Third, intituled *An Act to amend the Laws for the Relief of the Poor*, or elected under an Act passed in the Second Year of the Reign of His late Majesty, intituled *An Act for the better Regulation of Vestries, and for the Appointment of Auditors of Accounts, in certain Parishes of England and Wales*, or elected under the Provisions of any Local Act of Parliament for the Government of any Parish by Vestries, in which Parishes it shall mean such Select Vestry, and shall also mean any Body of Persons, by whatever Name distinguished, acting, by virtue of any Act of Parliament, Prescription, Custom, or otherwise, as or instead of a Vestry or Select Vestry :

“Board” shall mean, as regards the District of such a Local Board of Health, such Local Board of Health for the Time being in Office and acting as such Local Board of Health, and, as regards the District within the Limits of such an Improvement Act, the Commissioners, Trustees, or other Body of Persons by whatever Name distinguished for the Time being in Office and acting in the Execution of such Act :

“Commissioners” shall mean the Commissioners appointed in accordance with this Act for any Parish, and for the Time being in Office and acting as such Commissioners :

20 G. 2. c. 12.

1 and 2 W. 4.
c. 60.

"Clerk" shall mean, as regards an incorporated Borough, the Town Clerk of such Borough, and, as regards a District, the Clerk of the Board of such District, and, as regards a Parish, the Clerk appointed pursuant to this Act by the Commissioners :

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"Justice" shall mean Justice of the Peace for the County, Riding, Division, Liberty, Borough, District, Parish, or Place where the Matter requiring the Cognizance of Justices shall arise :

"Improvement Rates" shall mean the Rates, Tolls, Rents, Income, and other Monies whatsoever which under the Provisions of any such Improvement Act shall be applicable for the general Purposes of such Act :

"Lands" shall mean Lands, Tenements, and Hereditaments, of whatsoever Nature or Tenure :

Words importing the Masculine Gender shall include the Feminine :

Words of the Plural Number shall include the Singular, and Words of the Singular Number shall include the Plural.

IV. That the Council of any such Borough as aforesaid may, if they think fit, determine that this Act shall be adopted for such Borough, and then and in such Case such of the Provisions of this Act as are applicable in that Behalf shall thenceforth take effect and come into operation in such Borough, and this Act shall be carried into execution in such Borough, in accordance with such Provisions and the Laws for the Time being in force relating to the Municipal Corporation of such Borough.

*Council of any
Borough may
adopt the Pro-
visions contained
in this Act if
they think fit.*

V. That the Expenses of carrying this Act into execution in any such Borough in which the Council shall have resolved to adopt this Act, for their Borough shall be chargeable upon and paid out of the Borough Fund, and for that Purpose the Council may levy with and as Part of the Borough Rate, or by a separate Rate to be assessed, levied, paid, and recovered in like Manner and with the like Powers and Remedies in all respects as the Borough Rate, such Sums of Money as shall be from Time to Time necessary for defraying such Expenses, and shall apply the same accordingly, as if the Expense of carrying this Act into execution were an Expense necessarily incurred in carrying into effect the Provisions of the said Act of the Sixth Year of the Reign of His late Majesty ; and the Income arising from the Lodging Houses in any Borough shall be paid to the Credit of the Borough Fund thereof ; and the Council shall keep distinct Accounts of their Receipts, Payments, Credits, and Liabilities with reference to the Execution of this Act, to be called "The Lodging Houses Account."

*Expenses of
carrying this
Act into execu-
tion in a Borough
shall be charged
upon the Bo-
rough Fund, and
Income arising
to be carried to
the same.*

VI. That the Board of any such District, being the District of a Local Board of Health, may, if they think fit, determine that this Act shall be adopted for such District, and then and in such Case such of

*Any Local Board
of Health may
adopt the Pro-
visions of this
Act if they think
fit.*

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the Provisions of this Act as are applicable in that Behalf shall thenceforth take effect and come into operation in such District, and this Act shall be carried into execution in such District, in accordance with such Provisions and the Laws for the Time being in force relating to such Board.

On Requisition of Ratepayers Board to postpone Proceedings till after next Day for Election of Members of Board.

VII. Provided always, That the Board shall give not less than Twenty-eight nor more than Forty-two Days public Notice of their Intention to take into consideration the Propriety of adopting this Act, and of the Time and Place for holding the Meeting at which they will take it into consideration; and if there be presented to the Board at that meeting a Memorial in Writing, signed by not less than One Tenth in Value of the Persons liable to be rated to a General District Rate made by the Board, and requesting the Board to postpone such Consideration until after the then next yearly Day for the Election of Members of the Board, then and in such Case such Consideration shall be postponed until after that Day, and shall be entered on as soon after that Day as the Board think fit.

Expenses of carrying this Act into execution by Local Board of Health shall be charged on the District Fund, and Income arising to be carried to the same.

VIII. That the Expenses of carrying this Act into execution in any such District, being the District of a Local Board of Health in which the Board shall have resolved to adopt this Act for their District, shall be chargeable upon and paid out of the Monies from Time to Time carried to the Credit of the District Fund Account of such District, and for that Purpose the Board may levy with and as part of the General District Rate of such District, or by a separate Rate to be assessed, levied, paid, and recovered in like Manner and with the like Powers and Remedies in all respects as the General Rate of such District, such Sums of Money as shall be from Time to Time necessary for defraying such Expenses, and shall apply the same accordingly as if the Expense of carrying this Act into execution were an Expense necessarily incurred in carrying into effect the Provisions of the Public Health Act, 1848; and the Income arising from the Lodging Houses in any such District shall be paid to the Credit of the District Fund Account thereof; and the Board shall keep distinct Accounts of their Receipts, Payments, Credits, and Liabilities with reference to the Execution of this Act, to be called "The Lodging Houses Account."

Any Improvement Board may adopt the Provisions of this Act if they think fit.

IX. That the Board of any such District, (a.) being the Place within the Limits of any Act for the paving, lighting, watching, draining, or otherwise improving of such Place, may, if they think fit, determine that this Act shall be adopted for such District, and then and in such Case such of the Provisions of this Act as are applicable in that Behalf shall thenceforth take effect and come into operation in such District, and this Act shall be carried into execution in such District in accordance with such Provisions and the Laws for the Time being in force relating to such Board.

(a.) Applicable to Cheltenham.

X. Provided always, That the Board shall give not less than Twenty-eight Days nor more than Forty-two Days public Notice of their Intention to take into consideration the Propriety of adopting this Act, and of the Time and Place for holding the Meeting at which they will take it into consideration; and if there be presented to the Board at that Meeting a Memorial in Writing, signed by not less than One Tenth in Value of the Persons liable to be rated to an Improvement Rate made by the Board, and requesting the Board to postpone such Consideration until after the then next yearly or other Day for the Election or Appointment of Members of the Board, then and in such Case such Consideration shall be postponed until after that Day, and shall be entered on as soon after that Day as the Board think fit.

XI. Provided always, That in any Case in which the major Part in Number of the Members of the Board of any such District are elected or appointed in any Manner other than by or with the Concurrence of the Persons liable to be rated to Improvement Rates made by the Board shall not determine that this Act shall be adopted for the District, except with the Sanction of the major Part in Value of the Persons so liable present at a Meeting specially convened for the Purpose by the Board, by not less than Twenty-eight Days nor more than Forty-two Days public Notice of the Intention of holding such Meeting, and of the Time and Place for holding the same; and such Meeting shall be held at such convenient Place within the District, and at such convenient Time, as the Board think fit; and the Procedure thereat shall be regulated by the Board.

XII. That the Expenses of carrying this Act into execution in any such District, being the Place within the Limits of any such Improvement Act in which the Board shall have resolved to adopt this Act for their District, shall be chargeable upon and paid out of the Improvement Rate of such District, and for that Purpose the Board may levy with and as Part of such Improvement Rate, or by a separate Rate to be assessed, levied, paid, and recovered in like Manner and with the like Powers and Remedies in all respects as such Improvement Rate, such Sums of Money as shall be from Time to Time necessary for defraying such Expenses, and shall apply the same accordingly as if the Expenses of carrying this Act into execution were an Expense necessarily incurred in carrying into effect the general Provisions of such Improvement Act; and the Income arising from the Lodging Houses in any such District shall be paid to the Credit of the Improvement Rate thereof; and the Board shall keep distinct Accounts of their Receipts, Payments, Credits, and Liabilities with reference to the Execution of this Act, to be called "The Lodging Houses Account."

XIII. That in every Case in which any such Improvement Act contains Provisions for the auditing of Accounts thereunder, (*a.*) the

(a) These provisions are contained in sec. 125, ante, page 169, et seq.

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On Requisition of Ratepayers Board to postpone Proceedings till after next Day for Election of Members of Board.

If Majority of Board not elected by Ratepayers, Consent of Ratepayers to be obtained.

Expenses of carrying this Act into execution by Improvement Commissioners shall be charged on General Improvement Rate, and Income arising to be carried to the same.

Auditing Accounts of Improvement Commissioners with respect to Act.

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 14 & 15 Vic. c. 34. Accounts of the Board with respect to this Act shall be audited in accordance with those Provisions; and in every Case in which any such Improvement Act does not contain any such Provisions, the Accounts of the Board with respect to this Act shall be audited yearly by the Poor Law Auditor within whose District the District of the Board lies; and the Board shall produce to him their Accounts, with sufficient Vouchers for all Monies received and paid, and he shall examine such Accounts and Vouchers, and report thereon to the Board, and every such Report shall be open at all reasonable Times without Charge to the Inspection of every Person liable to be rated to an Improvement Rate made by the Board.

On the Requisition of Ten Ratepayers, Churchwardens, &c. to convene Vestry Meeting, to determine whether this Act shall be adopted.

XIV. That, upon the Requisition in Writing of Ten or more Ratepayers of any such Parish as aforesaid, the Churchwardens or other Persons to whom it belongs to convene Meetings of the Vestry in such Parish shall convene a Meeting of the Vestry for the special Purpose of determining whether this Act shall be adopted for the Parish, after public Notice of such Vestry, and the Place and Hour of holding the same, and the special Purpose thereof, given in the usual Manner in which Notice of the Meetings of the Vestry is given, in each of Three successive Weeks before the Day to be appointed for holding such Vestry; and if thereupon it shall be resolved by the Vestry that this Act ought to be adopted for the Parish, a Copy of such Resolution, extracted from the Minutes of the Vestry, and signed by the Chairman, shall be sent to One of Her Majesty's Principal Secretaries of State, for his Approval, and as soon as such Approval shall have been signified in Writing under the Hand of any such Secretary of State such of the Provisions of this Act as are applicable in that Behalf shall thenceforth take effect and come into operation in the Parish: Provided always, that such Resolution of the Vestry shall not be deemed to be carried unless at least Two Thirds in Value of the Votes given on the Question, according to the usual Manner of voting at such Vestry, shall have been given for such Resolution.

If Vestry resolve to adopt the Act, a Copy of Resolution to be sent to Secretary of State, &c.

Resolution not deemed to be carried unless Two Thirds vote for it.

Where Act adopted Vestry to appoint Commissioners for carrying the same into execution.

XV. That in such Case the Vestry shall appoint not less than Three nor more than Seven Persons, being Ratepayers of the Parish, Commissioners for carrying this Act into execution in the Parish, of whom One Third, or as nearly as may be One Third (to be determined among themselves), shall go out of Office yearly, (the Year being reckoned from and exclusive of the Day of the First Appointment of Commissioners,) but shall be eligible for immediate Re-appointment.

Resignation of Commissioners.

XVI. That any Commissioner may at any Time resign his Office as a Commissioner, on giving Seven Days Notice in Writing of his Intention to resign, to the Clerk, and also to the Churchwardens.

Vacancies to be filled up by Vestry.

XVII. That any Vacancies in the Commissionership may be filled up by the Vestry, when and as the Vestry shall think fit, but at the

latest at the then next yearly Meeting for the Appointment of Commissioners.

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XVIII. That the Commissioners shall meet at least once in every Calendar Month, and at such other Times as they think fit, at their Office, or some other convenient Place, public Notice of the Times and Place of Meeting being previously given.

Meetings of the Commissioners.

XIX. That it shall be at all Times competent for any One Commissioner, by Writing under his Hand, to summon, with at least Forty-eight Hours Notice, the Commissioners for any special Purpose therein named, and to meet at such Time as shall be therein named; and the Commissioners may meet accordingly without further Notice.

Special Meetings of Commissioners.

XX. That at all Meetings of the Commissioners any number, not less than One Third of the whole Number when more than Three Commissioners shall have been appointed, and when only Three Commissioners shall have been appointed, then any Number not less than Two Commissioners, shall be a sufficient Number for transacting Business, and for exercising all the Powers of the Commissioners.

Quorum of Meetings of Commissioners.

XXI. That the Commissioners, with the Approval of the Vestry, may appoint reasonable Salaries, Wages, and Allowances for a Clerk and such other Officers and Servants as shall be necessary for the Purposes of this Act, and shall appoint and may remove at Pleasure such Clerk, Officers, and Servants, and, when necessary, may hire and rent a sufficient Office for holding their Meetings and transacting their Business, and may agree for and pay a reasonable Rent for such Office.

Commissioners may appoint and remove Officers, &c.

XXII. That all Orders and Proceedings of the Commissioners shall be entered in Books to be kept by them for that Purpose, and shall be signed by the Commissioners or any Two of them; and all such Orders and Proceedings, so entered, and purporting to be so signed, shall be deemed to be original Orders and Proceedings, and such Books may be produced and read as Evidence of all such Orders and Proceedings upon any Appeal, Trial, Information, or other Proceeding, civil or criminal, and in any Court of Law or Equity whatsoever.

Minutes of Proceedings of Commissioners to be entered in Books.

XXIII. That the Commissioners shall provide and keep Books in which shall be entered true and regular Accounts of all Sums of Money received and paid for or on account of the Purposes of this Act in the Parish, and of all Liabilities incurred by them for such Purposes, and of the several Purposes for which such Sums of Money shall have been paid and such Liabilities shall have been incurred; and such Books shall at all reasonable Times be open to the Examination of every Commissioner, Churchwarden, Overseer, and Ratepayer, without Fee or Reward, and they respectively may take Copies of or Extracts from such Books or any Part thereof, without paying for the same; and in case the Commissioners or any of them, or any of their Officers or

Commissioners to keep Accounts, which shall be open to Inspection.

Penalty for refusing to allow Inspection.

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Servants, having the Custody of such Books, being thereunto reasonably requested, shall refuse to permit or shall not permit any Churchwarden, Overseer, or Ratepayer to examine the same, or take any such Copy or Extract, every Commissioner, Officer, or Servant so offending shall for every such Offence forfeit any Sum not exceeding Five Pounds.

Auditors to be appointed yearly, who shall examine the Accounts and report to Vestries.

XXIV. That the Vestry shall yearly appoint Two Persons, not being Commissioners, to be Auditors of the Accounts of the Commissioners; and at such Time in the Month of *March* in every Year after the Adoption of this Act for the Parish as the Vestry shall appoint the Commissioners shall produce to the Auditors their Accounts, with sufficient Vouchers for all Monies received and paid, and the Auditors shall examine such Accounts and Vouchers, and report thereon to the Vestry: Provided always, that if the general Accounts of the Parish be audited by a Poor Law Auditor, the Accounts of the Commissioners shall be audited by such Poor Law Auditor.

Expenses of executing Act in any Parish to be paid out of the Poor's Rate.

XXV. That the Expenses of carrying this Act into execution in any Parish to such Amount as shall be from Time to Time sanctioned by the Vestry shall be chargeable upon and paid out of the Monies to be raised or applicable for the Relief of the Poor of the Parish; provided always, that the Vestry shall be convened in the Manner usual in the Parish, and the Amount for the Time being proposed to be raised or applied for such Expenses shall be expressed in the Notice convening the Vestry.

Overseers to levy as Part of the Poor's Rate such Sums as Vestry shall deem necessary to pay expenses.

XXVI. That for defraying the Expenses so sanctioned the Vestry may and shall from Time to Time order the Overseers to levy with and as part of the Rate for the Relief of the Poor of the Parish such Sums as the Vestry shall deem necessary, and the Amount thereof shall accordingly be assessed, levied, paid, and recovered in like Manner, and with the like Powers and Remedies in all respects, as such Rate, and shall be paid by the Overseers, according to the Order of the Vestry, to such Person as shall be appointed by the Commissioners to receive the same, and his Receipt shall be a sufficient Discharge to the Overseers for the same, and shall be allowed accordingly in passing their Accounts: Provided always, that in the Notices requiring the Payment of the Rate the Proportion which the Amount to be thereby raised for the Purposes of this Act shall bear to the total Amount to be thereby raised shall be stated as accurately as Circumstances may admit.

Monies raised, and the Income arising from Lodging Houses in the Parish, to be applied towards defraying Expenses.

XXVII. That the Money raised for defraying the Expenses of carrying this Act into execution, and the Income arising from the Lodging Houses in the Parish, shall be applied by the Commissioners in or towards defraying the Expenses of carrying this Act into execution in the Parish; and whenever, after Repayment of all Monies borrowed for the Purpose of carrying this Act into execution in the Parish, and

the Interest thereof, and after satisfying all the Liabilities of the Commissioners with reference to the Execution of this Act in the Parish, and providing such a Balance as shall be deemed by the Commissioners sufficient to meet their probable Liabilities during the then next Year, there shall be at the Time of holding the Meeting of the Vestry at which the yearly report of the Auditors shall be produced any surplus Money at the Disposal of the Commissioners, they shall pay the same to the Overseers, in aid of the Rate for the Relief of the Poor of the Parish.

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XXVIII. That the Vestries of any Two or more neighbouring Parishes having, according to the then last Census, an aggregate Population of not less than Ten thousand may, for the Purpose of concurring in carrying this Act into execution, respectively adopt this Act in like Manner as if the Population of each of those Parishes were, according to the then last Census, not less than Ten thousand; and the Vestries of any Two or more neighbouring Parishes which shall have respectively adopted this Act may concur in carrying this Act into execution in such Parishes, in such Manner, not inconsistent with the Provisions of this Act, and for such Time, as they shall mutually agree; and for that Purpose it may, with the Approval of such Secretary of State, be agreed on between such Vestries that any Lodging Houses shall be erected and made in any One of such Parishes, to be vested in the Commissioners thereof, and that the Expenses of carrying this Act into execution with reference to the same shall be borne by such Parishes in such Proportions as such Vestries shall mutually agree, and the Proportion for each of such Parishes of such Expenses shall be chargeable upon and paid out of the Monies to be raised for the Relief of the Poor of the same respective Parish accordingly: and, according and subject to the Terms which shall have been so agreed on, the Commissioners appointed for each of such Parishes shall in the Management of the said Lodging Houses form One Body of Commissioners, and shall act accordingly in the Execution of this Act; and the Accounts and Vouchers of such Commissioners shall be examined and reported on by the Auditors of each of such Parishes, and the surplus Money at the Disposal as aforesaid of such Commissioners shall be paid to the Overseers of such Parishes respectively, in the same Proportions as those in which such Parishes shall be liable to such Expenses.

Vestries of Two or more Parishes may concur in carrying this Act into execution, subject to the Approval of Secretary of State.

XXIX. That for the more easy Execution of the Purposes of this Act the Commissioners of every such Parish shall be a Body Corporate, with perpetual Succession, which shall not be deemed to be interrupted by any partial or total Vacancy from Time to Time in their Office, by the Name of "The Commissioners for Lodging Houses in the Parish of () in the County of ()," and by that Name may sue and be sued in all Courts, and before all Justices

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and others, and may have and use a Common Seal, and by that Name may take, hold, and convey any Lands vested in them for the Purposes of this Act.

Acts of Commissioners to be good notwithstanding Informalities.

XXX. That all Acts and Proceedings of any Person in possession of the Office of such Commissioner, and acting in good Faith as such Commissioner, shall, notwithstanding his Disqualification or Want of Qualification for, or any Defect or Irregularity in, or in any way concerning his Appointment to such Office, be as valid and effectual as if he were duly qualified, or there had not been any such Defect or Irregularity.

Councils, &c. may borrow Money for the Purposes of the Act, with the Approval of the Treasury.

XXXI. That for carrying this Act into execution in any Borough, District, or Parish respectively, the Council, with the Approval of the Commissioners of Her Majesty's Treasury, and also with the Approval of the General Board of Health, and the Board, with the Approval of the Commissioners of Her Majesty's Treasury, and also with the Approval of the General Board of Health, and the Commissioners, with the Sanction of the Vestry, and also with the Approval of the Commissioners of Her Majesty's Treasury, and also with the Approval of the General Board of Health, may from Time to Time borrow, at Interest, on the Security of a Mortgage, as the Case may be, of the Borough Fund, or of the General District Rates, or of the Improvement Rates, or of the Rates for the Relief of the Poor of the Parish, the Money which may be by them respectively required, and shall apply the Monies so borrowed accordingly.

The Public Works Loan Commissioners may advance Money for the Purposes of this Act.

XXXII. That the Commissioners for carrying into execution an Act passed in the Tenth Year of the Reign of Her Majesty, intituled *An Act to authorize the Advance of Money out of the Consolidated Fund for carrying on Public Works and Fisheries and Employment of the Poor*, may from Time to Time make to the Council of any such Borough or to any Board or to the Commissioners of any such Parish respectively, for the Purposes of this Act, any Loan, under the Provisions of the recited Act, or the several Acts therein recited or referred to, upon Security of the Borough Fund, or the General District Rates, or the Improvement Rates, or the Rates for the Relief of the Poor of the Parish, as the Case may be.

Certain Provisions of 8 & 9 Vict. c. 18. incorporated with this Act.

XXXIII. That the Provisions (a.) of the Companies Clauses Consolidation Act, 1845, with respect to the borrowing of Money by any Company on Mortgage, and the Provisions of the same Act with respect to the Accountability of the Officers of the Company, and the Provisions of the same Act with respect to the making of Byelaws, subject to the Provision herein-after contained, and the Provisions of the same Act with respect to the Recovery of Damages not specially provided

(a.) See these Provisions inserted in full, post appendix No. 5.

for, and Penalties, so far as such Provisions may respectively be applicable to the Purposes of this Act, shall be respectively incorporated with this Act; and the Expressions in such Provisions applicable to the Company and the Directors shall apply, as regards a Borough, to the Council, and as regards a Parish, to the Commissioners; and all Deeds and Writings which under such Provisions are required or directed to be made or executed under the Common Seal of the Company shall, in the Application of such Provisions to this Act, be deemed to be required or directed to be made or executed, as regards a Borough, under the Common Seal of the Mayor, Aldermen, and Burgesses, and, as regards a Parish, under the Common Seal of the Commissioners; and so much of such Provisions as are applicable to the Secretary of the Company shall apply to the Clerk; and in such of the said Provisions as relate to the Inspection of Accounts, as regards a Borough, the Burgesses, and, as regards a Parish, the Ratepayers, shall have the Privileges of Shareholders. (a.)

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XXXIV. That the Lands Clauses Consolidation Act, 1845, (b.) shall be incorporated with this Act: Provided always, that the Council, the Board, and the Commissioners respectively shall not purchase or take any Lands otherwise than by Agreement.

Provisions of 8 &
9 Vict. c. 18 in-
corporated with
this Act.

XXXV. That in any such Borough the Council, with the Approval of the Commissioners of Her Majesty's Treasury, may from Time to Time appropriate for the Purposes of this Act in the Borough any Lands vested in the Mayor, Aldermen, and Burgesses; and in any such District the Board, with the Approval of the General Board of Health, may from Time to Time appropriate for the Purposes of this Act in the District any Lands vested in the Board or at the Disposal of the Board; and in any such Parish the Commissioners appointed under this Act, with the Approval of the Vestry and of the Guardians of the Poor of the Parish (if any), and of the Poor Law Board, may from Time to Time appropriate for the Purposes of this Act in the Parish any Lands vested in such Guardians, or in the Churchwardens, or in the Churchwardens and Overseers of the Parish, or in any Feoffees, Trustees, or others, for the general Benefit of the Parish; and in any such Parish the Commissioners, and in any such Borough the Council, and in any such District the Board, may from Time to Time, with the like respective Approval, contract for the purchasing or renting of any Lands necessary for the Purposes of this Act; and the Property therein shall be vested in the Mayor, Aldermen, and Burgesses in the Case of a Borough, or in the Board in the Case of a District, or in the Commissioners in the Case of a Parish.

In Boroughs the
Council may ap-
propriate, with
Consent of the
Treasury, Lands
vested in the
Mayor, &c.

In Parishes the
Commissioners
may, with Ap-
proval of Vestry,
&c., appropriate
Lands belonging
to Parish;

Or contract for
Purchase of the
same.

(a.) See notes (a.) and (b.) to pages 205 & 206, app., ante. (b.) See this Act, post app., No. 6.

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Councils and Commissioners may erect Lodging Houses.

XXXVI. That the Council and Board and Commissioners respectively may from Time to Time, on any Lands so appropriated, purchased, or rented, or contracted so to be, respectively, erect any Buildings suitable for Lodging Houses for the Labouring Classes, and convert any Buildings into Lodging Houses for the Labouring Classes, and may from Time to Time alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite Furniture, Fittings, and Conveniences.

Councils and Commissioners may enter into Contracts for the Purposes of this Act.

XXXVII. That the Council and Board and Commissioners respectively may from Time to Time enter into any Contract with any Persons or Companies for building and making, and for altering, enlarging, repairing, and improving, such Lodging Houses, and for supplying the same respectively with Water, and for lighting the same respectively, and for fitting up the same respectively, and for furnishing any Materials and Things, and for executing and doing any other Works and Things necessary for the Purpose of this Act, which Contracts respectively shall specify the several Works and Things to be executed, furnished, and done, and the Prices to be paid for the same, and the Times when the Works and Things are to be executed, furnished, and done, and the Penalties to be suffered in Cases of Nonperformance ; and all such Contracts, or true Copies thereof, shall be entered in the Books to be kept for that Purpose : Provided always, that a Contract above the Value or Sum of One hundred Pounds shall not be entered into by the Council or the Board or the Commissioners for the Purposes of this Act unless previous to the making thereof Fourteen Days Notice shall be given in One or more of the public Newspapers published in the County in which the Borough or District or Parish shall be situated, expressing the Intention of entering into such Contract, in order that any Person willing to undertake the same may make Proposals for that Purpose, to be offered to the Council or Board or Commissioners at a certain Time and Place in such Notice to be mentioned ; but it shall not be incumbent on the Council or Board or Commissioners to accept any of the Proposals so offered.

No Contract above £100 to be entered into without Notice.

Council or Commissioners may purchase existing Lodging Houses.

XXXVIII. That the Council of any such Borough, and the Board of any such District, and the Commissioners, with such respective Approval as is by this Act required with respect to the purchasing or renting in any other Case of any Lands necessary for the Purposes of this Act, may, if they shall think fit, contract for the Purchase or Lease of any Lodging Houses for the Labouring Classes already or hereafter to be built and provided in any such Borough or District or Parish, and appropriate the same to the Purposes of this Act, with such Additions or Alterations as they shall respectively deem necessary ; and the Trustees of any Lodging Houses for the Labouring Classes which have been already or may hereafter be provided in any

such Borough or District or Parish, by private Subscriptions or otherwise, may, with the Consent of the Council of any such Borough, or with the Consent of the Board of any such District, or with the Consent of the Commissioners, and with the like respective Approval, and with the Consent of a Majority of the Committee or other Persons by whom they were appointed Trustees, sell or lease the said Lodging Houses to the said Council or Board or Commissioners respectively, or make over to them the Management of such Lodging Houses; and in all such Cases the Lodging Houses so purchased or leased, or of which the Management has been so made over, shall be deemed to be within the Provisions of this Act, as fully as if they had been built or provided by the Council or Board or Commissioners, and the Property therein shall be vested in the Mayor, Aldermen, and Burgesses in the Case of a Borough, or in the Board in the Case of a District, or in the Commissioners in the Case of a Parish.

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XXXIX. That any Commissioners of Waterworks, Trustees of Waterworks, Water Companies, Gas Companies, and other Corporations, Bodies, and Persons having the Management of any Waterworks, Reservoirs, Wells, Springs, and Streams of Water, and Gasworks respectively, may, in their Discretion, grant and furnish Supplies of Water or Gas for such Lodging Houses, either without Charge or on such other favourable Terms as they shall think fit.

*Power to Water
and Gas Companies to supply
Water and Gas
to Lodging
Houses.*

XL. That anything in this Act contained shall not render any Member of the Council of any Borough, or any Member of any such Board, or any Commissioner, personally, or any of their Lands, Goods, Chattels, or Monies, (other than such Lands, Goods, Chattels, or Monies as may be vested in or under the Management or Control of the Council or Board or Commissioners respectively in pursuance of this Act,) liable to the Payment of any Sum of Money as or by way of Compensation or Satisfaction for or in respect of anything done or suffered in due pursuance of this Act.

*Councillors and
Commissioners
not to be personally
liable.*

XLI. That every Person who shall feel aggrieved by any Byelaw, Order, Direction, or Appointment of or by the Council or Board or Commissioners shall have the like Power of Appeal to the General Quarter Sessions as under the Provisions (a.) of the Companies Clauses Consolidation Act, 1845, incorporated with this Act, he might have, if feeling aggrieved by any Determination of any Justice with respect to any Penalty.

*Persons may appeal
against Orders of Councils
and Commissioners.*

XLII. That the Council, with the Approval of the Commissioners of Her Majesty's Treasury, and the Board, with the Approval of the General Board of Health, and the Commissioners appointed under this

*Council, &c. empowered to
make sale and
exchange of
Lands, with
Consent.*

(a.) See these provisions, post, appendix, No. 5.

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Act, with the Approval of the Vestry and of the Commissioners of Her Majesty's Treasury respectively, may from Time to Time make sale and dispose of any Lands vested in the Mayor, Aldermen, and Burgesses, or in the Board, or in the Commissioners, respectively, for the Purposes of this Act, and apply the Proceeds, or a sufficient Part thereof, in or towards the Purchase of other Lands better adapted for such Purposes, and may, with the like Approval, exchange any Lands so vested, and either with or without paying or receiving any Money for Equality of Exchange, for any other Lands better adapted for such Purposes, and the Mayor, Aldermen, and Burgesses, or the Board, or the Commissioners, may convey the Lands so sold or exchanged accordingly.

When Lodging Houses are considered too expensive, they may, with Approval of Treasury, be sold, and Proceeds of Sale carried to Borough Fund or Poor's Rate.

XLIII. That whenever any Lodging Houses which shall have been for Seven Years or upwards established under the Authority of this Act shall be determined by the Council, or by the Board, or by the Vestry, in accordance with a previous Recommendation of the Commissioners, to be unnecessary or too expensive to be kept up, the Council or Commissioners, with the Approval of the Commissioners of Her Majesty's Treasury, or the Board with the Approval of the General Board of Health, may sell the same for the best Price that can reasonably be obtained for the same, and the Mayor, Aldermen, and Burgesses, or the Board, or the Commissioners, shall convey the same accordingly, and the Purchase Money shall be paid to such Person as the Council or Board or Commissioners shall appoint, and his Receipt shall be a sufficient Discharge for the same, and the net Proceeds of such Sale shall be applied in the first instance in or towards Payment or Satisfaction of all the Debts, Liabilities, and Engagements whatsoever, with respect to the Purposes of this Act, of the Council, the Board, or the Commissioners, and the Surplus, if any, of such net Proceeds paid to the Credit of the Borough Fund, or of the General District Rate, or of the Improvement Rate, or of the Rate for the Relief of the Poor of the Parish.

Commissioners to cease to be a Corporation when their Duties have ceased.

XLIV. Provided always, That whenever by reason of the Sale of all the Lodging Houses provided under this Act for a Parish, and the Application as by this Act required of the net Proceeds of such Sale, and the Performance of all other the Duties under this Act of the Commissioners for the Parish, or by any other Reason, it becomes needless for the Commissioners for a Parish to continue to be a Corporation, such Commissioners shall thereupon cease to be a Corporation, and their Office as Commissioners for the Parish shall thereupon cease, and this Act shall thereupon cease to be in force in the Parish, but nevertheless this Act may thereafter be adopted for the Parish.

Management to be vested in Council and Parish Commissioners.

XLV. That the general Management, Regulation, and Control of the Lodging Houses established under this Act shall, subject to the

Provisions of this Act, be, as to any Borough, vested in and exercised by the Council, and as to any District vested in and exercised by the Board, and as to any Parish vested in and exercised by the Commissioners.

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XLVI. That the Byelaws which the Council and Board and Commissioners respectively may from Time to Time make, alter, repeal, and enforce shall include such Byelaws for the Management, Use, and Regulation of the Lodging Houses, and of the Tenants or Occupiers thereof, and for determining from Time to Time the Charges for the Tenancy or Occupation of the Lodging Houses, as the Council and Board and Commissioners respectively shall think fit, and they respectively may appoint any Penalty not exceeding Five Pounds for any and every Breach, whether by their Officers or Servants or by other Persons, of any Byelaw made by them respectively, and such Byelaws shall make sufficient Provision for the several Purposes respectively expressed in the Schedule to this Act: Provided always, that a Byelaw made under the Authority of this Act shall not be of any legal Force until the same shall have received the Approval of One of Her Majesty's Principal Secretaries of State.

*Council, &c.
may make Byelaws for regulating the Lodging Houses.*

Byelaws to be approved by the Secretary of State.

XLVII. That a printed Copy or sufficient Abstract of the Byelaws relating to the Management, Use, and Regulation of the Lodging Houses shall be put up and at all Times kept in every Room therein.

Byelaws to be hung up in every Room in the Lodging Houses.

XLVIII. That the Council and the Board and the Commissioners respectively may from Time to Time make such reasonable Charges for the Tenancy or Occupation of the Lodging Houses provided under this Act as they shall think fit.

Charges for Occupation, &c. to be fixed by Councils and Commissioners.

XLIX. That any Person who, or whose Wife or Husband, at any Time while such Person is a Tenant or Occupier of any such Lodging House or any Part of such a Lodging House, receives any such Relief, other than such Relief granted on account only of Accident or temporary Illness, shall thereupon be disqualified for continuing to be such a Tenant or Occupier.

As to Tenants of Lodging Houses receiving Parochial Relief.

L. That every Lodging House established under this Act which shall be within the District of a Local Board of Health shall at all Times be open to the Inspection of such Board, and the Officers thereof from Time to Time authorized by such Board to make such Inspection.

Lodging Houses to be open to Inspection of Local Boards of Health

LI. That if any Clerk or other Officer or any Servant who shall be in anywise employed by any Council or Board or Commissioners in pursuance of this Act shall exact or accept any Fee or Reward whatsoever for or on account of anything done or forborne, or to be done or forborne, in pursuance of this Act, or on any account whatsoever relative to putting this Act into execution, other than such Salaries, Wages, or Allowances as shall have been appointed by the Council or

Penalty on Council, Commissioners, or Officers taking Fees beyond Salaries, or being interested in Contracts.

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Board or Commissioners, or shall in anywise be concerned or interested in any Bargain or Contract made by the Council or Board or Commissioners for or on account of anything done or forborne, or to be done or forborne, in pursuance of this Act, or on any account whatsoever relative to the putting of this Act into execution, or if any Person during the Time he holds the Office of Member of the Council, or Member of the Board, or Commissioner, shall exact or accept any such Fee or Reward, or shall accept or hold any Office or Place of Trust created by virtue of this Act, or be concerned directly or indirectly in any such Bargain or Contract, every such Person so offending shall be incapable of ever serving or being employed under this Act, and shall for every such Offence also forfeit not exceeding the Sum of Fifty Pounds.

Application of
 Penalties.

LII. That such Part of any Penalty recovered under this Act as shall not be awarded to the Informer shall be paid to the Credit, as regards a Borough, of the Borough Fund, and, as regards a District, of the General District Rate thereof or the Improvement Rate thereof, and, as regards a Parish, of the Rate for the Relief of the Poor thereof.

Not to extend to
 Scotland.

LIII. That nothing in this Act shall extend to *Scotland*.

SCHEDULE referred to by the foregoing Act.

1. BYELAWS to be made in all Cases.

For securing that the Lodging Houses shall be under the Management and Control of the Officers, Servants, or others appointed or employed in that Behalf by the Council or Board or Commissioners.

For securing the due Separation at Night of Men, and Boys above Eight Years old, from Women and Girls.

For preventing Damage, Disturbance, Interruption, and indecent and offensive Language and Behaviour, and Nuisances.

For determining the Duties of the Officers, Servants, and others appointed by the Council or Board or Commissioners.

2. BYELAWS to be made in Boroughs, Districts, and Parishes wholly or partially within the Districts of Local Boards of Health.

For carrying out the Regulations of the Local Boards of Health.

3. BYELAWS to be made in Parishes.

For regulating the Procedure of the Commissioners. (a.)

(a.) Should Lord Shaftesbury's Bill "for making further Provisions with respect to Common Lodging Houses be passed into an Act, it will probably be in Time to form No. 8 in this Appendix.

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NO. 3.

NUISANCES REMOVAL ACTS.

By Section 18 of the Cheltenham Improvement Act, ante, page 28, it is provided "That any Committee appointed for the Removal of Nuisances, or the Prevention of contagious or epidemic Diseases, may receive Notices and make Complaints under the "Nuisances Removal and Diseases Prevention Act, 1849," or any Public Act of Parliament passed or to be passed for the like Purpose, and may proceed upon such Notices or Complaints pursuant to the Powers of any such Act, without further Authority from the Commissioners than is conferred by the Appointment of such Committee."

The Nuisances Removal Act was passed in 1848 and an Amendment Act to it was passed in 1849, which Acts, for convenience sake and not being incorporated with the Local Act, are placed in the Appendix rather than in the Body of the Act and are as follows :—

ANNO UNDECIMO & DUODECIMO VICTORIÆ REGINÆ.

CAP. CXXIII.

AN ACT TO RENEW AND AMEND AN ACT OF THE TENTH YEAR OF HER PRESENT MAJESTY, FOR THE MORE SPEEDY REMOVAL OF CERTAIN NUISANCES, AND THE PREVENTION OF CONTAGIOUS AND EPIDEMIC DISEASES.

[4th September 1848.]

WHEREAS an Act passed in the Tenth Year of Her Majesty's Reign, for the more speedy Removal of certain Nuisances, and to enable the Privy Council to make Regulations for the Prevention of contagious and epidemic Diseases, will expire at the End of the present Session of Parliament; and it is necessary that other Provision should be made in lieu thereof: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That in *England* and *Ireland*, upon Receipt (or as soon afterwards as can be) by the Town Council, or by any Trustees or Commissioners for the drainage, paving, lighting, or cleansing, or managing or directing the Police of any City, Town, Borough, or Place, or by any other Body of a like Nature, or by any Commissioners of Sewers or Guardians of the Poor, or in *Ireland*

9 & 10 Vict. c. 96.
In England and Ireland certain public Bodies, upon Receipt of Notice in Writing from Two Householders, of the filthy Condition of any Building, or of the Existence of certain Nuisances, to cause Examination to be made.

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by the Officers of Health of any Parish, of a Notice in Writing in the Form contained in the Schedule (A.) to this Act annexed, or to the like Effect, signed by Two or more inhabitant Householders of the Parish or Place to which the Notice relates, stating that, to the best of the Knowledge and Belief of the Persons by whom such Notice is signed, any Dwelling House or Building in any City, Town, Borough, Parish, or Place within or over which the Jurisdiction or Authority of the Town Council, Trustees, Commissioners, Guardians, Officers of Health, or other Body to whom such Notice is given, extends, is in such a filthy and unwholesome Condition as to be a Nuisance to or injurious to the Health of any Person, or that upon any Premises within such Jurisdiction or Authority there is any foul and offensive Ditch, Gutter, Drain, Privy, Cesspool, or Ashpit, or any Ditch, Gutter, Drain, Privy, Cesspool, or Ashpit kept or constructed so as to be a Nuisance to or injurious to the Health of any Person, or that upon any such Premises, Swine, or any Accumulation of Dung, Manure, Offal, Filth, Refuse, or other Matter or Thing, are or is kept so as to be a Nuisance to or injurious to the Health of any Person, or that upon any such Premises (being a Building used wholly or in part as a Dwelling House), or being Premises underneath any such Building, any Cattle or Animal are or is kept so as to be a Nuisance to or injurious to the Health of any Person, such Town Council, Trustees, Commissioners, Guardians, Officers of Health, or other Body, or some Committee thereof which may be temporarily or permanently appointed in this Behalf by such Town Council, Trustees, Commissioners, Guardians, Officers of Health, or other Body, shall, after Twenty-four Hours Notice in Writing, by delivering the same to some Person on the Premises referred to in such first-mentioned Notice, or (if there be no Person upon the Premises who can be so served) by fixing the same upon some conspicuous Part of such Premises (or in case of Emergency without Notice), by themselves, their Servants or Agents, with or without Medical or other Assistants, enter such Premises, and examine the same with respect to the Matters alleged in such first mentioned Notice, and do all such Works, Matters, and Things as may be necessary for that Purpose; and if upon such Examination, or upon the Certificate in Writing of Two legally qualified Medical Practitioners, it appear that any Dwelling House or Building so examined is in such a filthy and unwholesome Condition as aforesaid, or that upon any Premises so examined there is any such Ditch, Gutter, Drain, Privy, Cesspool, Ashpit, Swine, Cattle, or Animal, or any such Accumulation or other Matter or Thing as aforesaid, such Town Council, Trustees, Commissioners, Guardians, Officers of Health, or other Body, or such Committee, shall make or cause to be made Complaint before a Justice, who shall thereupon issue a Summons (which may be according to the Form contained in the Schedule (B.) to this Act annexed, or to the like Effect), requiring the

And if upon such Examination, or a Medical Certificate, it appear that the Nuisance, &c. exists, public Body to make Complaint before a Justice who shall summon the Owner or Occupier to appear before Two Justices.

Owner or Occupier of the Premises examined to appear before Two Justices to answer such Complaint; and such Summons shall be served by delivering the same, or a true Copy thereof, to some Person upon the Premises in respect whereof Complaint is made, or (if there be no Person upon the Premises who can be so served) by fixing such Summons or Copy upon some conspicuous Part of such Premises; and if at the Time and Place appointed by such Summons it be proved to the Satisfaction of such Justices that any Dwelling House or Building in in respect whereof Complaint is made is in such a filthy and unwholesome Condition as aforesaid, or that any such Cause or Causes of Complaint as aforesaid exists or exist, and (in case such Owner or Occupier do not appear) that such Summons or Copy was served as aforesaid, such Justices shall make an Order in Writing under their Hands and Seals, (which Order may be according to the Form contained in the Schedule (C.) to this Act annexed, or to the like Effect,) for cleansing, whitewashing, or purifying such Dwelling House or Building, or for the Removal or Abatement of any such Cause or Causes of Complaint, in such Manner and within such Time as shall be specified in such Order (not being more than Two clear Days, exclusive of *Sunday*, after Service of such Order as herein-after directed); and such Order shall be forthwith served by delivering the same or a true Copy thereof to some Person upon the Premises in respect whereof it is made, or (in case there be no Person upon the Premises who can be so served) by fixing such Order or Copy upon some conspicuous Part of such Premises; and if such Order be not complied with the Owner or Occupier (*a.*) against whom it is made shall be liable to a Penalty not exceeding Ten Shillings for every Day during the Continuance of his Default, and the Town Council, Trustees, Commissioners, Guardians, Officers of Health, or other Body mentioned therein, shall, by themselves, their Servants or Agents, or by such Committee as aforesaid, their Servants or Agents, enter such last-mentioned Premises, and cleanse, whitewash, or purify the same, or remove or abate the Cause or Causes of Complaint in respect whereof the said Order shall have been made, and do all such Works, Matters, and Things as may be necessary for carrying such Order into effect; and any Dung, Manure, Offal, Filth, or Refuse, and any other Matter or Thing removed by any such Town Council, Trustees, Commissioners, Guardians, Officers of Health, or other Body as aforesaid, in pursuance of this Enactment, may be destroyed or sold, and in case of Sale the Proceeds arising therefrom shall be paid to or (as the Case may require) be retained by the Guardians of the Poor, and shall be by them applied in aid of the Rate for the Relief of the Poor of the Parish, Electoral Division, or Place in which such Removal shall have been made.

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And who shall
upon Proof, &c.
order him to
whitewash, &c.
or remove the
Nuisance com-
plained of;

And if such
Order be not
complied with,
the Owner or
Occupier in de-
fault to be liable
to Penalties, and
public Body to
enter the Pre-
mises, and do
the Works
ordered, or re-
move the Nui-
sance.

(*a.*) See sections 16 and 17 of this Act inflicting penalties on occupiers or others obstructing owners or others in obeying the orders.

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In Scotland
certain public
Officers, upon
Receipt of Notice
in Writing from
Two House-
holders of the
filthy Condition
of any Building,
or of the Exist-
ence of certain
Nuisances, to
cause Examina-
tion to be made ;

II. And be it enacted, That in *Scotland*, upon or as soon as can be after Notice in Writing in the Form contained in the Schedule (A.) to this Act annexed, or to the like Effect, signed by Two or more of the inhabitant Householdors of the Parish or Place to which the Notice relates, made to the Procurator Fiscal of any County, or the Procurator Fiscal or the Dean of Guild of any Royal Burgh, or the Procurator Fiscal of the Justices of the Peace of any County, or the Commissioners of Police or Trustees for paving, lighting, or cleansing any City, Town, Burgh, Parish, or Place, or the Inspector of the Poor of any Parish, stating that any Dwelling House or Building within any Royal Burgh, or in any City, Town, Burgh, Parish, or Place, within or over which the Jurisdiction or Authority of any such Procurator Fiscal, or of such Dean of Guild, or Commissioners of Police, or Trustees for paving, lighting, or cleansing, or Inspector of the Poor, extends, is in such a filthy and unwholesome Condition as to be a Nuisance to or injurious to the Health of any Person, or that upon any Premises within such Jurisdiction or Authority there is any foul and offensive Drain, Ditch, Gutter, Privy, Cesspool, or Ashpit, or any Drain, Ditch, Gutter, Privy, Cesspool, or Ashpit kept or constructed so as to be a Nuisance to or injurious to the Health of any Person, or that upon any such Premises Swine, or any Accumulation of Dung, Manure, Offal, Filth, Refuse, or other Matter or Thing, are or is kept so as to be a Nuisance to or injurious to the Health of any Person, or that upon any such Premises (being a Building used wholly or in Part as a Dwelling House), or being Premises underneath any such Building, any Cattle or Animal are or is kept so as to be a Nuisance to or injurious to the Health of any Person, it shall be competent to any such Procurator Fiscal or Dean of Guild, or the proper Officer of such Commissioners of Police or Trustees, or such Inspector of the Poor respectively, after Twenty-four Hours from the giving Notice in Writing by Service thereof upon some Person on the Premises referred to in such first-mentioned Notice, or (if there be no Person upon the Premises who can be so served) by fixing the same upon some conspicuous Part of such Premises, or in case of Emergency without Notice, by himself or others acting under his Authority, with or without Medical or other Assistants, to enter such Premises, and examine the same with respect to the Matters alleged in such first-mentioned Notice, and do all such Works, Matters, and Things as may be necessary for that Purpose ; and if upon such Examination, or upon the Certificate in Writing of Two legally qualified Medical Practitioners, it appear that any Dwelling House or Building so examined is in such a filthy and unwholesome Condition as aforesaid, or that upon any Premises so examined there is any such Drain, Ditch, Gutter, Privy, Cesspool, Ashpit, Swine, Cattle, or Animal, or any such Accumulation, or other Matter or Thing, as aforesaid, such Procurator Fiscal, Dean of Guild, Officer, or Inspector shall make

And if upon such Examination or a Medical Certificate it appear that the Nuisance exist, public Body to make Complaint before the Sheriff or a Justice, who shall order the Owner or Occupier to appear ;

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or cause to be made Complaint to the Sheriff or Magistrates or a Justice, who shall thereupon order the Owner or Occupier of the Premises examined to appear before such Sheriff or Magistrates or Two Justices to answer such Complaint; and such Order shall be served by delivering the same, or a true Copy thereof, to some Person upon the Premises in respect whereof Complaint is made, or (if there be no Person upon the Premises who can be so served) by fixing such Order or Copy upon some conspicuous Part of such Premises; and if at the Time and Place appointed by such Order it be proved to the Satisfaction of such Sheriff or Magistrates or Justices that any Dwelling House or Building in respect whereof Complaint is made is in such a filthy and unwholesome Condition as aforesaid, or that any such Cause or Causes of Complaint as aforesaid exists or exist, and (in case such Owner or Occupier do not appear) that such Order or Copy was served as aforesaid, such Sheriff or Magistrates or Justices shall make an Order in Writing under their Hands (which Order may be according to the Form contained in the Schedule (C.) to this Act annexed, or to the like Effect,) for cleansing, whitewashing, or purifying such Dwelling House or Building, or for the Removal or Abatement of any such Cause or Causes of Complaint, in such Manner and within such Time as shall be specified in such Order (not being more than Two clear Days, exclusive of *Sunday*, after Service of such Order), and such last-mentioned Order shall be forthwith served by delivering the same, or a true Copy thereof, to some Person upon the Premises in respect whereof it is made, or, in case there be no Person upon the Premises who can be so served, by fixing such Order or Copy upon some conspicuous Part of such Premises; and if such Order be not complied with the Owner or Occupier against whom it is made shall be liable to a Penalty not exceeding Ten Shillings for every Day during the Continuance of his Default, and the Procurator Fiscal, or Dean of Guild, or proper Officer of the Commissioners of Police, or Trustees or Inspectors of the Poor respectively, shall, by themselves or others acting under their Authority, enter such last-mentioned Premises, and cleanse, whitewash, or purify the same, or remove or abate the Cause or Causes of Complaint in respect whereof the said last-mentioned Order shall have been made, and do all such Works, Matters, and Things as may be necessary for carrying such Order into effect, and any Dung, Manure, Offal, Filth, or Refuse, and any other offensive or noxious Matter or Thing, removed in pursuance of this Enactment, may be destroyed or sold, and in case of Sale the Proceeds arising therefrom shall be paid to or (as the Case may require) be retained by the Parochial Board for the Management of the Poor, and shall be by them applied in aid of the Funds for the Relief of the Poor of the Parish or Place in which such Removal shall have been made.

And upon Proof, &c. whitewashing, &c. or Removal of the Nuisance complained of, to be ordered.

If such last-mentioned Order be not complied with, Owner or Occupier in default to be liable to Penalties, and the Public Officers to enter Premises, and do the Works ordered, or remove the Nuisance.

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Recovery of
Costs, &c. from
Owner or Occu-
pier of the
Premises.

III. And be it enacted, That whenever any such Order as aforesaid for cleansing, whitewashing, or purifying any Dwelling House or Building, or for the Removal or Abatement of any such Cause or Causes of Complaint as aforesaid, has been obtained, all Costs and Expenses reasonably incurred in obtaining such Order, or in carrying the same into effect, shall be deemed to be Money paid for the Use and at the Request of the Owner or Occupier of the Premises in respect whereof such Costs and Expenses shall have been incurred, and may be recovered as such by the said Town Councils, Trustees, Commissioners, Guardians, Officers of Health, or other Body, or by the said Procurators Fiscal, Deans of Guild, Commissioners of Police, or Trustees and Inspectors of the Poor respectively, as such, in any County Court, Civil Bill Court, or, in *Scotland*, before the Sheriff or Magistrates or Justices of the Peace; or such Town Council, Magistrates, Trustees, Commissioners, Guardians, Officers of Health, or other Body, or Procurators Fiscal, Deans of Guild, or Inspectors of the Poor, may, if they shall think fit, recover such Costs and Expenses before Two Justices, or, in *Scotland*, before the Sheriff or Magistrates or Two Justices, from the Owner or Occupier of the Premises in respect of which such Order is made; and any Two Justices, or, in *Scotland*, the Sheriff or Magistrates or any Two Justices, upon the Application of any such Town Council, Magistrates, Trustees, Commissioners, Guardians, Officers of Health, or other Body, or Procurator Fiscal, Dean of Guild, or Inspector of the Poor, shall issue a Summons, or, in *Scotland*, an Order, requiring such Owner or Occupier to appear before them, or before him or them, at a Time and Place to be named therein; and at the Time and Place so named, upon Proof to the Satisfaction of such Justices, or such Sheriff or Magistrates or Justices, that any such Costs and Expenses have been so incurred as aforesaid, and (in case such Owner or Occupier do not appear) that a Copy of such last-mentioned Summons or Order was served by delivering the same to some Person on the Premises in respect of which the Costs and Expenses were incurred, or, if there be no Person upon the Premises who can be so served, by fixing the same upon some conspicuous Part of such Premises, such Justices, or such Sheriff or Magistrates or Justices, unless they think fit to excuse the Party summoned upon the Ground of Poverty or other special Circumstances, shall, by Order in Writing, in *England* or *Ireland* under the Hands and Seals of such Justices, or, in *Scotland*, under the Hands of such Sheriff or Magistrates or Justices, order him to pay the Amount to the Applicants, together with the Costs attending such Application and the Proceedings thereon; and if the Amount be not paid within Seven Days after Demand, the same may, by Warrant under the Hands and Seals of the same or any other Two Justices, or, in *Scotland*, under the Hands of the Sheriff or Magistrates or Justices, by whom the last-mentioned Order shall have been made, or any other Two Justices, be levied by

Distress and Sale of the Goods and Chattels of the Owner or Occupier in default; and if no Distress sufficient to satisfy the same can be found within the Jurisdiction of the Justices, or of the Sheriff or Magistrates or Justices, by whom such Warrant shall have been issued, and it so appear upon Oath before Two Justices, or, in *Scotland*, before the Sheriff or Magistrates or Two Justices, of any other County or Jurisdiction in which any Goods or Chattels of the Defaulter may be, such last-mentioned Justices, or Sheriff or Magistrates or Justices, shall endorse their or his Signatures or Signature upon the last-mentioned Warrant, and thereupon the Amount to be levied, or so much thereof as may be unsatisfied, shall be levied of the last-mentioned Goods and Chattels, in the same Manner as if such Warrant had been originally and properly issued by the Justices, or by the Sheriff or Magistrates or Justices, of such last-mentioned County or Jurisdiction.

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IV. And be it enacted, That all Costs and Expenses reasonably incurred as aforesaid in carrying into effect any of the Provisions herein-before contained, and not recovered from any Owner or Occupier of the Premises in respect of which such Expenses shall have been incurred, shall, upon an Order in Writing specifying the Sum to be paid, under the Hands and Seals of Two Justices, or, in *Scotland*, under the Hands of the Sheriff or Magistrates or Two Justices, (who are hereby required to make such Order, upon proper Application in this Behalf,) be retained, paid, or defrayed by the Treasurer of such Guardians or Parochial Board, or by the Overseers of the Poor, or other proper Officers or Persons, out of the Funds in their Hands applicable to the Relief of the Poor, and shall be charged to the Parish, Electoral Division, or Place maintaining its own Poor in which the Premises in respect whereof such Costs and Expenses shall have been so incurred are situated, and in other Places in *England* or *Ireland* out of any public Rates or Funds raised in such Places, or applicable thereto under the Authority of Parliament, or in case there be no such Rates or Funds as last aforesaid, then out of the Funds for the Relief of the Poor of the Parish, Electoral Division, or Place nearest adjoining, or if there be Two or more Parishes or Places nearest adjoining, out of the Funds for the Relief of the Poor of such One of them as Two Justices shall, by Order in Writing under their Hands and Seals, appoint; and in case any such Costs or Expenses shall have been incurred on account or in respect of any Parish in *Scotland* in which it shall happen that there is not at the Time an Assessment for the Relief of the Poor imposed or levied, then the same shall be paid or defrayed out of an Assessment to be imposed and levied for that Purpose, and to the Extent necessary, under and in the Manner provided by an Act of the Ninth Year of Her Majesty's Reign, for the Amendment and better Administration of the Laws relating to the Relief of the Poor in *Scotland*, and if any such Treasurer, Overseers, or Officers or Persons, neglect or

Certain Expenses of this Act to be defrayed out of Poor's Rates, &c.

8 & 9 *Vic.* c. 83.

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refuse to pay the Sum specified in any Order of Justices, or of any Sheriff or Magistrates, made under this Enactment, for the Space of Twenty-one Days after the Date of such Order, the same may, by Warrant under the Hands and Seals of the same or any other Two Justices, or, in *Scotland*, under the Hands of the Sheriff or Magistrates or any Two Justices, by whom such Order shall have been made, or any other Two Justices, be levied by Distress and Sale together with the Costs of such Distress and Sale, of the Goods and Chattels of the Treasurer, Overseers, or other Officers or Persons in default.

Above Provisions
not to apply to
Districts and
Places in which
the Public
Health Act is in
force.

V. Provided always, and be it enacted, That nothing herein-before contained shall apply to any District, Parish, or Place in which the Public Health Act, 1848, or any Part thereof, (*a.*) shall be in force, unless and except in so far as the General Board of Health, by Order in Writing, sealed with the Seal of such Board, and signed by Two or more Members thereof, or (in case there be no such Board in existence) as One of Her Majesty's Principal Secretaries of State, by Order in Writing under his Hand, shall otherwise direct: Provided also, that nothing in this Act shall be construed to impair, abridge, or take away any Power, Jurisdiction, or Authority which may at any Time be vested in any Commissioners of Sewers, or to take away or interfere with any Course of Proceeding which might be resorted to or adopted by such Commissioners if this Act had not been passed.

Jurisdiction of
Commissioners
of Sewers not to
be impaired.

Surveyor of
Highways re-
quired to cleanse
open Ditches
adjoining High-
ways, &c.

5 & 6 W. 4. c. 50.
8 & 9 Vict. c. 41.

VI. And whereas by an Act passed in the Sixth Year of the Reign of King *William* the Fourth, for consolidating and amending the Laws relating to Highways in *England*, the Surveyor and District Surveyor or Assistant Surveyor therein mentioned are empowered to scour, cleanse, and keep open all Ditches, Gutters, Drains, or Watercourses; and by an Act passed in the Ninth Year of Her Majesty's Reign, for amending the Laws concerning Highways, Bridges, and Ferries in *Scotland*, the Trustees or Surveyors therein mentioned are empowered to cleanse the Ditches made or to be made along the Sides of any Highway, in case of the Neglect or Refusal of the Proprietor or Occupier to cleanse such Ditches when duly required so to do by such Trustees or Surveyors; and with a view to the more effectual Removal of Nuisances injurious to Health it is expedient that such Surveyor, District Surveyor, or Assistant Surveyor, Trustees or Surveyors, should not only be empowered but required to scour, cleanse, and keep clear, or cause to be scoured, cleansed, and kept clear, as far as may be practicable, all open Ditches, Gutters, Drains, and Watercourses upon, adjoining, or by or along the Sides of any Highway: (*b.*) Be it therefore enacted, That the said Surveyor, or District or Assistant Surveyor, Trustees or Surveyors, shall scour, cleanse, and keep clear, or cause to be scoured,

(*a.*) The provisions before contained are made applicable to Cheltenham by sec. 18, of the Local Act, ante, p. 38.

(*b.*) See ante, sec. 56 of Local Act, p. 71.

cleansed, and kept clear, as far as may be practicable, all open Ditches, Gutters, Drains, and Watercourses upon, adjoining, or by or along the Sides of any Highway; and any Sewage, Drainage, Soil, Filth, or other Matter or Thing whatsoever which shall be removed by any such Surveyor, District or Assistant Surveyor, Trustees or Surveyors, from any such Ditch, Gutter, Drain, or Watercourse, in scouring, cleansing, and keeping clear the same, shall be disposed of by such Surveyor, Assistant or District Surveyor, Trustees or Surveyors, and the Proceeds arising therefrom shall be applied towards the Repair of the Highway within the Parish or Place in which such Removal shall have taken place; and the Provisions herein-before contained with respect to Ditches, Gutters, Drains, and Watercourses upon, adjoining, or by or along the Sides of Highways, shall, in so far as the same relate to *England*, be deemed to be Part of the said Act relating to Highways in *England*, and in so far as the same relate to *Scotland* shall be deemed to be Part of the said Act relating to Highways in *Scotland*.

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VII. And be it enacted, That whosoever shall suffer any Sewage, Drainage, Soil, Filth, or any Matter or Thing of a noxious or offensive Nature to run or flow into or to remain in any open Ditch, Gutter, Drain, or Watercourse, so as to be a Nuisance to or injurious to the Health of any Person, from any Dwelling House, Building, or other Premises which shall not have been occupied before the passing of this Act, or from any Privy or Watercloset which shall not have been constructed before that Time, shall be deemed guilty of a Misdemeanor, (*a.*) or, in *Scotland*, of an Offence punishable by Fine or Imprisonment, and shall, in addition, be liable for every such Offence to a Penalty not exceeding Five Pounds for every Day during which the Offence is continued.

Drainage into open Ditches from new Houses a Misdemeanor, &c.

VIII. And be it enacted, That whenever it is intended to build or open any Hospital for the Reception of Patients afflicted with contagious or infectious Diseases or Disorders, the Trustees or other Persons by whose Authority such Hospital is intended so to be built or opened as aforesaid shall give Notice of such Intention to the said General Board of Health, or (in *Ireland*) to the Commissioners of Health herein-after mentioned; and no such Hospital shall be built or opened as aforesaid until the said General Board of Health or Commissioners of Health, as the Case may be, have approved thereof in Writing; but nothing herein contained shall apply to the building or opening of any Addition to a Building which shall have been used as a Hospital previously to such Addition.

Notice to be given to General Board of Health, and in Ireland to Commissioners of Health, of Intention to build or open certain Hospitals, &c.

IX. And whereas it is expedient that when any Part of the United Kingdom shall appear to be threatened with or affected by any for-

Privy Council, &c. empowered to issue Orders

(a.) To which a punishment of Fine or Imprisonment, or both attaches.

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for putting in
force the Pro-
visions of this
Act relative to
the Prevention
of epidemic
Diseases, &c.

midable epidemic, endemic, or contagious Disease, Measures of Precaution should be taken with Promptitude, according to the Exigency of the Case : Be it therefore enacted, That in *Great Britain* the Lords and others of Her Majesty's Most Honourable Privy Council, or any Three or more of them, (the Lord President of the Council, or One of Her Majesty's Principal Secretaries of State, being One,) and in *Ireland* the Lord Lieutenant or other Chief Governor or Governors and Privy Council of *Ireland*, may, by Order or Orders to be by them from Time to Time made, direct that the Provisions hereinafter contained for the Prevention of epidemic, endemic, and contagious Diseases be put in force in *Great Britain* and *Ireland* respectively, or in such Parts thereof or in such Places therein respectively as in such Order or Orders respectively may be expressed, and may from Time to Time, as to all or any of the Parts or Places to which any such Order or Orders may extend, and in like Manner, revoke or renew any such Order, and, subject to Revocation and Renewal as aforesaid, every such Order shall be in force for Six Calendar Months, or for such shorter Period as in such Order shall be expressed.

After Order by
Privy Council,
General Board
of Health, &c.
may issue
Directions and
Regulations.

X. And be it enacted, That from Time to Time after the issuing of any such Order as last aforesaid, and whilst the same shall continue in force, the General Board of Health (in *Great Britain*), under the Seal of the said Board, and the Hands of Two or more Members thereof, and in *Ireland* the Commissioners of Health for the Time being, under the Hands of Two or more of them, may issue such Directions and Regulations as the said Board or last-mentioned Commissioners (as the Case may be) shall think fit, for the Prevention, as far as possible, or Mitigation, of such epidemic, endemic, or contagious Diseases, and from Time to Time, in like Manner, revoke, renew, and alter any such Directions or Regulations, or substitute such new Directions and Regulations as to the said Board or last-mentioned Commissioners may appear expedient; and the said Board or last-mentioned Commissioners, as the Case may be, may by such Directions and Regulations provide for the frequent and effectual cleansing of Streets and public Ways and Places by the Surveyors, District or Assistant Surveyors of Highways, Trustees, County Surveyors, and others by Law intrusted with the Care and Management thereof, or by the Owners and Occupiers of Houses and Tenements adjoining thereto, and for the cleansing, purifying, ventilating, and disinfecting of Houses, Dwellings, Churches, Buildings, and Places of Assembly, by the Owners or Occupiers and Persons having the Care and ordering thereof, for the Removal of Nuisances, for the speedy Interment of the Dead, and generally for preventing or mitigating such epidemic, endemic, or contagious Diseases, in such Manner as to the said Board or last-mentioned Commissioners, (as the Case may be,) may seem expedient; and the said Board or last-mentioned Commissioners may by any such Directions and Regulations

authorize and require the Guardians of the Poor in *England* and *Ireland*, and the Parochial Boards for the Management of the Poor in *Scotland*, by themselves or their Officers, or any Persons employed by them in the Administration of the Laws for the Relief of the Poor, or by Officers specially appointed in this Behalf, to superintend and see to the Execution of any such Directions and Regulations, and (where it shall appear that there may be Default or Delay in the Execution thereof, by Want or Neglect of such Surveyors, Trustees, or others intrusted as aforesaid, or by reason of Poverty of Occupiers, or otherwise,) to execute or aid in executing the same within their respective Unions and Parishes and Combinations, and in any extra-parochial Places adjoining to or surrounded by the same in which the Directions and Regulations of the said Board or last-mentioned Commissioners shall not be executed by the Inhabitants, and to provide for the dispensing of Medicines, and for affording to Persons afflicted by or threatened with such epidemic, endemic, or contagious Diseases such Medical Aid as may be required, and to do and provide all such Acts, Matters, and Things as may be necessary for superintending or aiding in the Execution of such Directions and Regulations, or for executing the same, as the Case may require; and the Directions and Regulations to be issued as aforesaid shall extend to all Parts or Places in which the Provisions of this Act for the Prevention of epidemic, endemic, or contagious Diseases shall for the Time being be put in force under such Orders as aforesaid, unless such Directions and Regulations shall be expressly confined to some of such Parts or Places, and then to such Parts or Places as in such Directions and Regulations shall be specified, and (subject to the Power of Revocation and Alteration herein contained) shall continue in force so long as the said Provisions of this Act shall be in force, under such Orders, in the Parts or Places to which such Directions and Regulations shall under this Provision extend: Provided always, that if at any Time in *Ireland* there shall not be any Commissioners of Health the Lord Lieutenant or other Chief Governor or Governors of *Ireland*, by his or their Warrants, may appoint so many Persons as he or they may think fit, not being more in Number than Five, to act as Commissioners of Health in *Ireland*, without Salary, Fee, or Reward, and may from Time to Time remove any of such Commissioners, and appoint any other Person in his Stead; and such Commissioners shall for all Purposes be Commissioners of Health in *Ireland* within the Meaning and for the Purposes of this Act.

XI. And be it enacted, That Her Majesty may from Time to Time, during the Continuance of any Order of Her Majesty's Privy Council or of any Members thereof as aforesaid, by Warrant under the Royal Sign Manual, appoint, in addition to the Members for the Time being of the General Board of Health, One fit Person to be a Medical Member of such Board for the Purposes of this Act, and Her Majesty may, at Her

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One Medical
Member of
General Board
of Health may
be appointed.

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Treasury to pay
Allowances ap-
pointed by
Parliament.

Poor Law Com-
missioners, &c.
may compel
Guardians, &c.
to execute Regu-
lations and
Directions of
the General
Board of Health,
&c.

Pleasure, remove any Person so appointed; and there shall be paid to the Person or Persons so appointed such Allowance or Allowances as shall be appointed by the Commissioners of Her Majesty's Treasury, out of any Monies which may from Time to Time be appointed by Parliament for that Purpose.

XII. And be it enacted, That the Commissioners for administering the Laws for the Relief of the Poor in *England* and *Ireland* respectively, and the Board of Supervision established under the said Act for the Amendment and better Administration of the Laws relating to the Relief of the Poor in *Scotland*, may require the Officers and Persons acting under them to enquire into, superintend, and report on the Execution of the Directions and Regulations of the General Board of Health, or Commissioners of Health, as the Case may be, under this Act, and shall have the same Powers for enforcing and directing the Execution of such Directions and Regulations by the said Guardians and Parochial Boards respectively as they now or may hereafter have in relation to any Matter concerning the Administration of the Laws for the Relief of the Poor.

Power of Entry
for the Purpose
of enforcing
Regulations of
the General
Board of Health,
&c.

XIII. And be it enacted, That the said Guardians and Parochial Boards acting in the Execution of any such Directions or Regulations as aforesaid, or the Officers or Persons by them in this Behalf authorized, at reasonable Times in the Daytime, may and they are hereby empowered to enter and inspect any Dwelling or Place, if there be Ground for believing that any Person may have recently died of any such epidemic, endemic, or contagious Disease in any such Dwelling or Place, or that there is any Filth or other Matter dangerous to Health therein or thereupon, or that Necessity may otherwise exist for executing, in relation to the Premises, all or any of such Directions and Regulations as aforesaid.

Expenses of
Guardians, &c.
to be paid out of
Poor Rate, &c.

XIV. And be it enacted, That the said Guardians and Parochial Boards may appoint or employ, for the Superintendence and Execution of the said Directions and Regulations, Officers or Persons in aid of the Officers or Persons employed in the Administration of the Laws for the Relief of the Poor; and such Guardians and Parochial Boards respectively shall defray the Expenses incurred by them respectively in the Superintendence and Execution of such Directions and Regulations out of the Funds of their respective Unions, Parishes, or Combinations; and if any such Expenses shall have been incurred on account or in respect of any extra-parochial Place in *England* or *Ireland*, the same shall, upon an Order in Writing specifying the Sum to be paid, under the Hands and Seals of Two Justices, who are hereby empowered to make such Order, upon proper Application in this Behalf, be paid or defrayed out of any public Rates or Funds raised therein or applicable thereto under the Authority of Parliament, or in case there be no such

Rates or Funds as last aforesaid, then out of the Funds of the Union or Parish for which the Guardians by whom the Expenses have been incurred act; and in case any such Expenses shall have been incurred on account or in respect of any Parish in *Scotland* in which it shall happen that there is not at the Time an Assessment for the Relief of the Poor imposed or levied, then the same shall be paid or defrayed out of an Assessment to be imposed and levied for that Purpose, and to the Extent necessary, under and in the Manner provided by the said Act for the Amendment and better Administration of the Laws relating to the Relief of the Poor in *Scotland*.

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s & 9 Vict. c. 83.

XV. And be it enacted, That every Order of Her Majesty's Privy Council, or of the Lord Lieutenant and Privy Council of *Ireland*, and every Direction and Regulation of the said General Board of Health or Commissioners of Health under this Act, shall, forthwith upon the issuing thereof, be laid before both Houses of Parliament, if Parliament be then sitting, and if not then within Fourteen Days next after the Commencement of the then next Session of Parliament; and every such Order of Her Majesty's Privy Council, or any Members thereof, as aforesaid, shall be certified under the Hand of the Clerk in Ordinary of Her Majesty's Privy Council, and shall be published in the *London Gazette*, and every such Order of the Lord Lieutenant and Privy Council of *Ireland* shall be certified under the Hand of One of the Clerks of the Privy Council of *Ireland*, and shall be published in the *Dublin Gazette*; and every such Direction and Regulation as aforesaid, when issued in *Great Britain* shall be published in the *London Gazette* and in the *Edinburgh Gazette*, and when issued in *Ireland*, in the *Dublin Gazette*; and such Publication of any such Order, Direction, or Regulation shall be conclusive Evidence of the Order, Direction, or Regulation so published, to all Intents and Purposes.

Orders, Directions, and Regulations to be laid before Parliament, and to be gazetted, &c.

XVI. And be it enacted, That whosoever shall wilfully obstruct any Person acting under the Authority or employed in the Execution of this Act, or who shall wilfully violate any Direction or Regulation issued by the General Board of Health, or such Commissioners of Health as aforesaid, under this Act, shall be liable for every such Offence to a Penalty not exceeding Five Pounds; and if the Occupier of any Premises prevent the Owner thereof from obeying or carrying into effect the Provisions of this Act, any Justice, or in *Scotland* the Sheriff or any Justice, to whom Application is made in this Behalf, shall by Order in Writing (which may be according to the Form contained in the Schedule (D.) to this Act annexed, or to the like Effect,) require such Occupier to permit the Execution of the Works required to be executed, provided that such Works appear to such Sheriff or Justice to be necessary for the Purpose of obeying or carrying into effect the Provisions of this Act; and if within a reasonable Time after

Penalties for obstructing Execution of this Act.

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No. 3. the making of such Order the Occupier against whom it is made refuse
 11 & 12 Vic. to comply therewith, he shall be liable to a Penalty not exceeding
 c. 123. Five Pounds for every Day afterwards during the Continuance of such
 Refusal.

Recovery of
 Penalties in
 England or Ire-
 land.

XVII. And be it enacted, That Penalties imposed by this Act for Offences committed in *England* or *Ireland* may be recovered by any Person before any Two Justices, and may be levied by Distress and Sale of the Goods and Chattels of the Offender, together with the Costs of such Distress and Sale, by Warrant under the Hands and Seals of the Justices before whom the same shall be recovered, or any other Two Justices; and in case it shall appear to the Satisfaction of such Justices, before or after the issuing of such Warrant, either by the Confession of the Offender or otherwise, that he hath not Goods and Chattels within their Jurisdiction sufficient to satisfy the Amount, they may commit him to any Gaol or House of Correction for any Time not exceeding Fourteen Days, unless the Amount be sooner paid, in the same Manner as if a Warrant of Distress had issued and a Return of

And in Scotland.

Nulla bona been made thereon; and Penalties imposed by this Act for Offences in *Scotland* may be recovered by the Procurator Fiscal of the Court, or by any other Person, before the Sheriff or Two Justices, who may proceed in a summary Way, and grant Warrant for bringing the Parties complained upon immediately before him or them, and on Proof on Oath by One or more credible Witness or Witnesses, or other legal Evidence, he or they may forthwith determine and give Judgment, without any written Pleadings or Record of Evidence, and grant Warrant for the Recovery of the Penalties and Expenses decerned for, and, failing Payment within Eight Days after Conviction, by Poining, and Imprisonment for a Period, at the Discretion of the Sheriff or Justices, not exceeding Fourteen Days; and all Penalties whatsoever recovered under this Act shall be paid to or (as the Case may require) be retained by the Guardians of the Poor, or, in *Scotland*, the Parochial Board for the Management of the Poor, and shall be by them applied in aid of the Rates or Funds for the Relief of the Poor of the Parish, Electoral Division, or Place in which the Penalties may have been incurred.

Application of
 Penalties.

One or more of
 several joint
 Owners or Oc-
 cupiers may be
 proceeded
 against alone.

XVIII. And be it enacted, That in case of any Demand or Complaint under this Act to which Two or more Owners or Occupiers of Premises may be jointly answerable, it shall be sufficient to proceed against any One or more of them, without in any Manner proceeding against the others or other of them; but nothing herein contained shall prevent the Parties so proceeded against from recovering Contribution in any Case in which they would now be entitled to Contribution by Law.

Unnecessary
 to describe
 Owner or Occu-
 pier by Name in
 certain Cases.

XIX. And be it enacted, That wherever in any Proceeding under this Act, whether written or otherwise, it shall become necessary to

mention or refer to the Owner or Occupier of any Premises, it shall be sufficient to designate him as the "Owner" or "Occupier" of such Premises, without Name or further Description.

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XX. And be it enacted, That no Order, nor any other Proceeding, Matter, or Thing done or transacted in or relating to the Execution of this Act, shall be vacated, quashed, or set aside for Want of Form, or be removed or removeable by Certiorari, or by Suspension or Advocation, or other Writ or Process whatsoever, into any of the Superior Courts.

*Proceedings not
to be quashed
for Want of
Form.*

XXI. And be it enacted, That all Proceedings whatsoever commenced or taken or to be commenced or taken under the said first-recited Act of the Tenth Year of Her Majesty's Reign, and which shall not have been completed and enforced whilst the last-mentioned Act continues in force, may be proceeded with and enforced under the Provisions of that Act, although such Provisions be no longer in force, in the same Manner in all respects and to all Intents and Purposes as if the same continued to be in force, and as if the said last-mentioned Act had not expired.

*Proceedings
commenced un-
der 9 & 10 Vict.
c. 96. may be
enforced, al-
though that Act
has expired.*

XXII. And be it enacted, That in this Act the following Words and Expressions shall have the Meanings herein-after assigned to them, unless such Meanings be repugnant to or inconsistent with the Context; (that is to say,) the Words "Justice" and "Justices" shall mean a Justice or Justices of the Peace acting for the Place where the Matter or any Part of the Matter, as the Case may be, requiring the Cognizance of the "Justice" or "Justices" arises; the Expression "Two Justices" shall mean Two or more Justices assembled and acting together, or One Stipendiary or Police Magistrate acting in any Police Court for the Place in which the Matter or any Part of the Matter, as the Case may be, requiring the Cognizance of "Two Justices" arises; the Word "Sheriff" shall mean the Sheriff of any County or Place in *Scotland* where the Matter requiring the Cognizance of the "Sheriff" arises, and shall include the Sheriff Substitute; the Word "Magistrates" shall mean the Magistrates of any Royal Burgh in *Scotland* where the Matter requiring Cognizance arises; the Words "Guardians of the Poor" and the Words "Parochial Board" shall mean the Guardians, Directors, Wardens, Governors, Parochial Board, or other like Officers having the Management of the Poor for any Union, Parish, Combination, or Place where the Matter requiring the Cognizance of any such Officers arises; the Word "Street" shall include every Highway, Road, Square, Row, Lane, Mews, Court, Alley, and Passage, whether a Thoroughfare or not; the Word "Owner" shall mean any Person receiving the Rents of the Property in respect of which that Word is used from the Occupier of such Property, on his own Account, or as Trustee or Agent for any other Person, or who would receive the

*Interpretation
of Terms.*

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same if such Property were let to a Tenant; the Word "Person," and Words applying to any Person or Individual, shall apply to and include Corporations, whether aggregate or sole; and Words and Expressions importing the Singular Number shall include the Plural Number, and Words importing the Masculine Gender shall include Females.

Mode of citing
this Act.

XXIII. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments and other Proceedings, it shall be sufficient to use the Words "The Nuisances Removal and Diseases Prevention Act, 1848."

Act may be
amended &c.

XXIV. And be it enacted, That this Act may be amended or repealed in this present Session of Parliament.

SCHEDULES to which the foregoing Act refers.

SCHEDULE (A.)

Notice by Householders.

To the Town Council of the Borough of [or
Guardians of the Poor of the Union or of the
Parish of in the County of or as the Case
may be; or, in Scotland, to the Procurator Fiscal of the County of
or to the Procurator Fiscal or Dean of Guild of
the Burgh of or to the Procurator Fiscal of the
Justices of the County of or to the Inspector
of the Poor of the Parish of or as the Case
may be.]

WE, the undersigned Inhabitants [or, in Scotland,
Householders] of [insert the Parish or Place], and
residing at in [insert the Parish or Place before
mentioned] aforesaid, do hereby give you Notice, that to the best of
our Knowledge and Belief a Dwelling House [or Building] situate at
No. in Street in
aforesaid [or such other Description as may be sufficient to identify the
Premises] is in such a filthy and unwholesome Condition as to be a
Nuisance to [or injurious to the Health of] A.B., or as the Case may
be, [or that upon certain Premises situate at [inserting such a Descrip-
tion as may be sufficient to identify the Premises] there is a foul and
offensive Drain, Ditch, Gutter, Privy, Cesspool, or Ashpit, or a Drain,

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A.B.
C.D.

Summons to appear.

County of _____,
[OR Borough, &c. of _____,
OR Metropolitan Police Dis-
trict, OR AS THE CASE MAY BE]
to wit-

or One of the Magistrates of the Police Courts of the Metropolis holden at [or as the Case may be], by the Town Council of the Borough of [or as the Case may be], that a certain Dwelling House [or Building] situate at No. in the Parish of [or as the Case may be] in the County of [or such other Description as may be sufficient to identify the Premises] is in such a filthy and unwholesome Condition as to be a Nuisance to or injurious to the Health of A.B. or as the Case may be, [or that upon certain Premises situate at [inserting such a Description as may be sufficient to identify the Premises] there is a foul and offensive Drain, [Ditch, Gutter, Privy, Cesspool, or Ashpit, or a Drain, &c., kept or constructed so as to be a Nuisance to A.B., &c. [as the Case may be], or that Swine [or an Accumulation of Dung, Manure, Offal, Filth, Refuse, or Matter, or as the Case may be,] are [or is] kept so as to be injurious to the

Appendix
No 3. Health of *A.B.*, or of the Occupiers of the Premises adjoining the Premises aforesaid, or of Persons living in the Neighbourhood of the Premises aforesaid, or of Persons living in the Premises aforesaid, or a Nuisance to *A.B.*, &c., [*as the Case may be*]. These are therefore to require you to appear before Two of Her Majesty's Justices of the Peace [*or One of the Magistrates of the Police Courts of the Metropolis, at the Court holden at*] on the Day of next, at the Hour of to answer the Matter of the said Complaint.

Given under my Hand and Seal, this Day
 of in the Year of our Lord One thousand eight
 hundred and

J. K. (L. S.)

SCHEDULE (C.)

Order for Removal of Nuisances, &c.

To the Owner [*or Occupier*] of the Dwelling House [*or Building or Premises*] situate at No. in Street in the Parish of in the County of [*or such other Description as may be sufficient to identify the Premises*], and to the Town Council of the Borough of [*or to the Guardians of the Poor of the* Union, or of the Parish of in the County of or, in Scotland, the Procurator Fiscal of the County of or the Procurator Fiscal or Dean of Guild of the Burgh of or the Procurator Fiscal of the Justices of the Peace of the County of or the Inspector of the Poor of the Parish of as the Case may be], and to their Servants or Agents, and to all whom it may concern.

County of
 [OR Borough, &c. of
 OR Metropolitan Police District,
 OR AS THE CASE MAY BE]
 to wit.

WHEREAS on the Day of last Complaint was made before the undersigned [*or before J.K. Esquire, One of Her Majesty's Justices of the Peace acting in and for the County of* [*or before the undersigned, or J.K. Esquire, One of the Magistrates of the Police Courts of the Metropolis, or as the Case may be,*] by the Town Council of the Borough of [*or by the Guardians of the Poor of the* Union, or of the Parish of in the County of ; or, in Scotland, by the Procurator Fiscal of the County of or by the Procurator Fiscal or Dean of Guild of the Burgh of or by the Procurator Fiscal of the Justices of the Peace of the County

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of or by the Inspector of the Poor of the Parish
of as the Case may be], that a Dwelling House
[or Building] situate at No. in Street in
[the Parish or Place before mentioned aforesaid, [or such other Description as may be sufficient to identify the Premises,] then was in such a filthy and unwholesome Condition as to be a Nuisance [or injurious to the Health of] *A.B.*, or as the Case may be, [or that upon certain Premises situate at [inserting such a Description as may be sufficient to identify the Premises] there then was a foul and offensive Drain, [Ditch, Gutter, Privy, Cesspool, or Ashpit, or a Drain, &c. kept or constructed so as to be a Nuisance to *A.B.*, &c., as the Case may be], or that upon certain Premises, situate, &c., Swine, or an Accumulation of Dung, Manure, Offal, Filth, or Refuse, or as the Case may be, are or is kept so as to be injurious to the Health of *A.B.*, or of the Occupiers of the Premises adjoining the Premises first aforesaid, or of Persons living in the Neighbourhood of the Premises first aforesaid, or of Persons living in the Premises first aforesaid, or so as to be a Nuisance to *A.B.*, &c. : And whereas the Owner [or Occupier] of the said Dwelling House, Building, or Premises having this Day appeared before us, Two of Her Majesty's Justices of the Peace acting in and for the County [or Borough] of [or before me, One of the Magistrates of the Police Courts of the Metropolis, or, in Scotland, before the Sheriff or Magistrates or Two Justices of the Peace, as the Case may be], to answer the Matter of the said Complaint, [or in case the Party charged do not appear, And whereas it hath this Day been proved to our [or my] Satisfaction, that a true Copy of a Summons requiring the Owner [or Occupier] of the said Dwelling House [or Building or Premises] to appear this Day before us [or me] has been duly served according to the Statute in such Case made and provided], and it having been proved [or also proved, as the Case may require,] that the said Dwelling House [or Building] is in such a filthy and unwholesome Condition as aforesaid, [or that upon the Premises aforesaid [or first aforesaid] there is a foul and offensive Drain [Privy, Cesspool, or Ashpit, or a Drain, &c. kept or constructed so as to be a Nuisance to *A.B.*, &c., as the Case may be], or that upon the Premises aforesaid, or first aforesaid, an Accumulation of Dung, Manure, Offal, Filth, or Refuse, or as the Case may be, is kept, or a Pigsty exists, so as to be injurious to Health as aforesaid, or so as to be a Nuisance to *A.B.*, &c., as the Case may be] : We [or I] do hereby, in pursuance of the Statute in such Case made and provided, order the said Owner [or Occupier] of the said Dwelling House [or Building, or Premises, or first-mentioned Premises, within Hours from the Service of this Order, [or a true Copy thereof], according to the Statute in such Case made and provided, to cleanse, [whitewash or purify] the said Dwelling House [or to cleanse, cover, or fill up, or as the Case may require, the said Drain [Ditch, Gutter, Privy, Cesspool,

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 No. 3. or Ashpit, or otherwise as the Case may require], or remove the said
 11 & 12 Vic. Pigsty, or Accumulation of Dung, Offal, Filth, Refuse, or Matter, as
 c. 123. the Case may be, so that the same shall not be injurious to Health, or
 a Nuisance as aforesaid]; and if this Order be not complied with, then
 we [or I] authorize and require you the said Town Council [or Guar-
 dians of the Poor, or, in Scotland, the Procurator Fiscal of the County
 of or the Procurator Fiscal or Dean of Guild of the
 Burgh of or the Procurator of the Justices of the
 Peace of the County of or the Inspector of the Poor
 of the Parish of as the Case may be] to enter upon
 the said Dwelling House, or Building, or Premises, or first-mentioned
 Premises,] and to do all such Works, Matters, and Things as may be
 necessary for carrying this Order into effect, according to the Statute
 in such Case made and provided.

And for your so doing this shall be your sufficient Warrant.

Given under our Hands and Seals [or my Hand and Seal, or, in
 Scotland, our Hands, or my Hand], this Day of
 One thousand eight hundred and

Signatures. { (L.S.)*
 (L.S.)*

*[In Scotland without Seals.]

SCHEDULE (D.)

Order to permit Execution of Works by Owners.

County of [OR Borough, OR Burgh, OR Metropolitan Police District, OR AS THE CASE MAY BE] to wit.	}	WHEREAS Complaint hath been made to me, <i>E.F.</i> Esquire, One of Her Majesty's Jus- tices of the Peace in and for the County [or Borough, &c.] of [or One of the Magistrates of the Police Courts of the Metropolis, or as the Case may be, or, in Scotland, to me, <i>G.H.</i> , Sheriff, or One of Her Majesty's Jus- tices of the Peace, as the Case may be, of the County of], by <i>A.B.</i> , Owner within the Meaning of the "Nuisances Removal and Diseases Prevention Act, 1848," of certain Premises, to wit, a Dwel- ling House [or Building, or as the Case may be], situate [insert such a Description of the Premises as may be sufficient to identify them], in the Parish of in the said County [or Borough, &c.], that <i>C.D.</i> , the Occupier of the said Premises, doth prevent the said <i>A.B.</i>
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from obeying and carrying into effect the Provisions of the said Act, in this, to wit, that he the said *C.D.* doth prevent the said *A.B.* from *[here describe the Works generally according to the Circumstances; for instance, thus: cleansing or whitewashing or purifying the said Dwelling House [or Building], or cleansing a foul and offensive Drain [Ditch, Gutter, Privy, Cesspool, or Ashpit] which exists upon the said Premises, or as the Case may require:]* And whereas the said *C.D.* having been summoned to answer the said Complaint, and not having shown sufficient Cause against the same, and it appearing to me that the said Works are necessary for the Purpose of enabling the said *A.B.* to obey and carry into effect the Provisions of the said Act, I do hereby order that the said *C.D.* do permit the said *A.B.* to execute the same in the Manner required by the said Act.

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Given under my Hand and Seal [*or in Scotland, under my Hand*]
this Day of in the Year of our Lord
One thousand eight hundred and

E.F (L.S.)*

*[*In Scotland without Seal.*]

ANNO DUODECIMO AND DECIMO TERTIO
VICTORIÆ REGINÆ.

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CAP. CXI.

AN ACT TO AMEND THE NUISANCES REMOVAL AND DISEASES
PREVENTION ACT, 1848. [1st August 1849.]

WHEREAS it is expedient that the Nuisances Removal and Diseases Prevention Act, 1848, should be amended, and that the Powers of the General Board of Health in relation to certain of the Purposes of that Act should be extended: Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That this Act shall be deemed to be Part of the Nuisances Removal and Diseases Prevention Act, 1848, and shall be construed accordingly.

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123.

This Act to be construed with Nuisances Removal and Diseases Prevention Act, 1848, as one Act.

II. And be it enacted, That it shall be lawful for the General Board of Health, or any Two of the Members thereof, from Time to Time as such Board shall see Occasion, to require, by Summons under the Seal of the said Board, or if by Two only of the Members of such Board, then under the Hands of such Two Members and the Seal of the said

Power to Summon Witnesses, &c. in certain Cases.

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Board, (according to the Form in the Schedule annexed to this Act, or as near thereto as the Case will permit,) any Person to appear before such Board to testify on Oath the Truth touching any Matters respecting which the said Board are now or may hereafter be authorized to inquire (which Oath any Member of the said Board is hereby empowered to administer); and every Person who, after Tender of reasonable Expenses in that Behalf, shall not appear pursuant to such Summons, or shall not assign some reasonable Excuse for not so appearing, or refusing to be sworn or examined, shall, upon being convicted thereof before One of Her Majesty's Justices of the Peace or the Sheriff for the County or Place at and within which such Person shall have been by such Summons required to appear and give Evidence shall be situate, for every such Neglect or Refusal forfeit a Sum not exceeding Twenty Pounds.

Secretary of
Board of Health
may institute and
carry on Prosecu-
tion for Viola-
tion or Neglect
of Regulations.

III. And be it enacted, That the Secretary of the General Board of Health may, on the Order of the said Board, sealed with the Seal of such Board, and signed by any Two Members thereof, prosecute any Person for wilful Violation or Neglect of any Direction or Regulation issued by such Board under the Nuisances Removal and Diseases Prevention Act, 1848; and all Penalties sued for and recovered by such Secretary shall, notwithstanding anything contained in the last-mentioned Act, be paid to him, and be applied in defraying the Costs and Expenses incurred by him in such Prosecutions, and the Balance (if any) shall be applied in such Manner as the Lords Commissioners of Her Majesty's Treasury shall direct; and if the Penalties so recovered shall be insufficient to defray such Costs and Expenses, the Deficiency shall be defrayed out of any Monies which may be from Time to Time provided by Parliament for that Purpose.

Guardians of the
Poor, &c. may
direct Prosecu-
tions in certain
Cases.

IV. And be it enacted, That the Guardians, Directors, Wardens, Governors, or Overseers of the Poor, or Parochial Board, or other like Officers having the Management of the Poor, or acting under the Authority of any Local Act of Parliament for the paving, cleansing, drainage, or lighting any Town or Parish, may from Time to Time direct any Prosecutions or legal Proceedings for or in respect of the wilful Violation or Neglect of any Direction or Regulation issued by the General Board of Health, or in Ireland Commissioners of Health, under the Nuisances Removal and Diseases Prevention Act, 1848, and may defray the Expenses of such Prosecutions or Proceedings out of the Funds in their Hands applicable to the Relief of the Poor.

Ex-officio
Guardians may
act as Justices.

V. And be it enacted, That Justices of the Peace being *ex-officio* Guardians of the Poor may in all Cases, notwithstanding their holding the Office of Guardian, exercise in Petty Session the Jurisdiction vested in them as Justices of the Peace under the Nuisances Removal and Diseases Prevention Act, 1848.

VI. And be it enacted, That Guardians, Directors, Wardens, Governors, Overseers, or Parochial Board, or other like Officers having the Management of the Poor, or acting under such Authority as aforesaid, upon the Receipt of a Certificate of any Medical or Relieving Officer of the Union or Parish for which any such Guardians, Directors, Governors, Overseers of the Poor, or Parochial Board, or other Officers, act, stating the Existence of any of the Cause or Causes of Complaint specified in the Sections numbered I. and II. in the Copies of the Nuisances Removal and Diseases Prevention Act, 1848, printed by Her Majesty's Printers, or in *Ireland* upon the Receipt of a like Certificate of any such Medical or Relieving Officer, or of any Two Constables of the Constabulary Force of the District or Place or of any Two Constables of the *Dublin* Police within the *Dublin* Police District, shall take all such Proceedings as by the said Sections respectively are required to be taken upon the Receipt of a Notice in Writing signed by Two Inhabitant Householders, and in the same Manner (as nearly as may be) as if such Notice had been given.

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Guardians of the Poor, &c. may take certain Proceedings upon the Certificate of Medical or Relieving Officer.

VII. And whereas it is enacted by the Nuisances Removal and Diseases Prevention Act, 1848, that all Costs and Expenses reasonably incurred in carrying into effect certain Provisions therein contained, and not recovered from any Owner or Occupier of the Premises in respect of which such Expenses shall have been incurred, shall, upon an Order in Writing, specifying the Sum to be paid, under the Hands and Seals of Two Justices, or in *Scotland* under the Hands of the Sheriff or Magistrate, or Two Justices, be retained, paid, or defrayed by the Treasurer of the Guardians of the Poor, or Parochial Board, or by the Overseers of the Poor, or other proper Officers, out of the Funds in their Hands applicable to the Relief of the Poor; and it is expedient that such Costs and Expenses should be retained, paid, and defrayed in certain Cases without an Order of Justices, Sheriff, or Magistrates: Be it therefore enacted, That whenever any such Costs and Expenses shall have been or shall be reasonably incurred by any Guardians, Directors, Wardens, Governors, Overseers of the Poor, or Parochial Board, or other like Officers having the Management of the Poor, and the same shall not have been recovered from the Owner or Occupier of the Premises in respect of which such Costs and Expenses shall have been incurred, such Costs and Expenses may, where an Order shall have been made by the Justices for the Removal or Abatement of the Nuisance, or in any Case where the Amount shall not exceed Twenty Shillings, be retained, paid, and defrayed by the Treasurer of such Guardians, or by such Directors, Wardens, Governors, Overseers, or Parochial Board, or other like Officers, (as the Case may be,) out of the Funds in their Hands applicable to the Relief of the Poor, without the Order of any Justice or Justices of the Peace, anything in the said Act to the contrary notwithstanding, and be charged as in the said Act directed.

Guardians of the Poor, &c. may defray certain Expenses without an Order of Justices, Sheriff, or Magistrates.

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Guardians of
Unions or Paro-
chial Boards
may charge Ex-
penses of re-
moving Nui-
sances on Parish,
&c. where Pre-
mises situated.

VIII. And be it enacted, That where the Guardians of a Union, or Parochial Board, shall, in the Execution of any Order or Regulation of the Board of Health issued under the Authority of the said herein-before mentioned Act, expend any Money in the Removal or Abatement of a Nuisance from any private Premises or Land, or from any public Place, they may, if they think fit, charge the same, where the Expenses do not exceed Twenty Shillings, to the Parish or Place or Electoral Division in the Union or Combination wherein the Premises shall be situated in respect whereof such Expenses shall have been incurred, and where they exceed Twenty Shillings, and the Guardians or the Majority of the Guardians, if more than Two Guardians of such Parish, Electoral Division, or Place, object in Writing to the said Expenses being so charged, then only upon an Order in Writing under the Hands and Seals of Two Justices, or in *Scotland* under the Hands of the Sheriff or Magistrates, or Two Justices, who are hereby required to make such Order, upon Application on behalf of such Guardians.

General Board of
Health may
cause Inquiry to
be made into
State of Burial
Grounds, and
may direct
Measures of Pre-
caution.

IX. (a.) And be it enacted, That it shall be lawful in *England* or *Wales* for the General Board of Health, and in *Ireland* for the Commissioners of Health, to cause Inquiry to be made by a Superintending Inspector, or by such other Ways and Means as the General Board of Health or such Commissioners may deem fit to direct, into the State of the Burial Grounds in any Part of *England* or *Wales* excepted from the Powers of the Public Health Act, 1848, or in any populous City, Town, or Place in *England* or *Wales* to which for the Time being the said Act has not been applied, or in any populous City, Town, or Place in *Ireland*; and if it appear to the General Board of Health or the said Commissioners that any such Burial Ground is in such a State as to be dangerous to the Health of the Persons living in the Neighbourhood thereof, it shall be lawful for the said General Board of Health in *England* and *Wales*, under the Seal of the said Board, and under the Hands of Two or more Members thereof, and the said Commissioners of Health in *Ireland*, under the Hands of Two or more of them, to issue such Orders as the said Board or Commissioners respectively may think fit for the Application of such disinfecting Substances, and for the Adoption of such other Measures of Precaution in relation to the Premises, as may, in the Opinion of the said Board or Commissioners of Health, tend to lessen or remove the Danger to Health; and the Churchwardens and other Persons having the Care and Control of the Burial Grounds to which such Orders shall relate shall do all such Works and Matters in relation thereto as by such Orders may be directed, and all Expenses incurred in the Execution of such Orders

(a.) The 96th and 7 following sections of the Local Act, ante p. 126, et seq. make full provisions for regulating Burial-, preventing danger to Health, &c., and closing Burial Places.

shall be defrayed out of the Poor Rates of the Parish: Provided always, that no such Order as aforesaid shall be made after the End of the next Session of Parliament.

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X. (a.) And be it enacted, That where it appears to the General Board of Health, or the Commissioners of Health in *Ireland*, that the Churchyard or other Burial Ground of any Parish is dangerous to Health as aforesaid, and that temporary Provision for Interment elsewhere is urgently required, the Churchwardens of such Parish, with the Consent of the Bishop of the Diocese and the Approval of such General Board of Health, or Commissioners of Health in *Ireland*, shall, if possible, either agree with any Cemetery Company for the Burial in the Ground of such Company of the Bodies of Persons having Right of Burial in the Churchyard or other Burial Ground of such Parish, or agree for the Burial of such Bodies in the Churchyard or Burial Ground of any other Parish of which the Minister and Churchwardens may consent thereto, and make all proper Arrangements in relation to such Burial: Provided always, that where any such Agreement as aforesaid shall be proposed to be made by the Churchwardens of any Parish, such Churchwardens shall submit such proposed Agreement to a Meeting of the Vestry, or Persons having the Powers of Vestry, in such Parish, and if the Majority of Persons assembled at such Meeting shall disapprove such Agreement the Churchwardens shall not proceed therewith; and the Expenses incurred by such Churchwardens in relation to such Agreement, and in carrying the same into effect, shall be paid out of the Poor Rates of their Parish: Provided also, that no such Agreement as aforesaid shall be made after the End of the next Session of Parliament.

Where Churchyard is dangerous to Health Churchwardens may agree for the Burial of Parishioners in the Ground of any Cemetery Company or in the Burial Ground of any other Parish.

XI. And be it enacted, That where upon any such Inquiry as aforesaid it appears to the General Board of Health that the State of the Burial Grounds in any Parish, or in any Parishes which may be conveniently united for the Purposes herein-after mentioned, and the Circumstances of such Parish or Parishes, render it expedient for the Protection of the Public Health that Interments should be prohibited in such Parish or Parishes, except as after mentioned, and that a Burial Ground or Burial Grounds should be provided for such Parish, or for the common Use of such Parishes, the General Board of Health may direct a Superintending Inspector to make Inquiry in the Manner directed by the Public Health Act, 1848, or as near thereto as Circumstances will permit, into all the Circumstances connected with the Parochial and other Burial Grounds of such Parish or Parishes, and as to the Place or Places in which any Burial Ground or Burial Grounds might be provided, either within or beyond the Limits of such Parish

General Board of Health may direct Inquiries, where it may be expedient to prohibit Interment.

(a.) The 104th and following sections of the Local Act, ante, pages 129, et seq, provide full powers for making and regulating new Cemeteries, and see note (a) page 260, appendix.

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or Parishes, and as to the Means which might be provided for the Conveyance of Bodies for Interment, and any other Arrangements which might be practicable for facilitating the convenient Interment of Bodies in the Burial Ground or Burial Grounds to be so provided, and as to the Rights in any Burial Ground in such Parish or Parishes, not being a Parochial Burial Ground, which might be affected by the Prohibition of Interments in such Parish or Parishes, and as to the Proportions in which several Parishes (if more than One) should contribute to the Expense of providing and maintaining a common Burial Ground or common Burial Grounds for such Parishes, and into such other Matters as the General Board of Health may think necessary for the Purpose of enabling them to judge of the Propriety of framing a Scheme to be submitted to Parliament as herein-after mentioned, and of the Provisions which should be inserted therein; and such superintending Inspector shall report in Writing, in such Manner as the General Board of Health shall direct, the Result of his Inquiries in relation to the Premises.

Upon Report
 Board of Health
 may frame a
 Scheme for pro-
 viding new
 Burial Grounds.

XII. And be it enacted, That upon the Presentation of such Report the General Board of Health shall cause a Copy thereof to be transmitted to the Bishop of the Diocese, and Copies thereof to be published, in such Manner as they may direct, in the Parish or Parishes to which such Report relates, and to be deposited with the Minister and with the Churchwardens of such Parish or each of such Parishes; and the General Board of Health shall receive all such Statements in relation to the Matter of such Report as shall be delivered within a Time to be limited by the said Board in this Behalf, and may, where they think fit, cause further Inquiry to be made in relation to the Matter of such Report; and if after such Inquiry and Report, or further Inquiry as aforesaid, it appear to the said Board expedient so to do, they may frame a Scheme in which shall be set forth such Provisions as to the said Board under the Circumstances of each Case may appear proper for providing a Burial Ground or Burial Grounds for such Parish or Parishes as aforesaid, either within such Parish or any of such Parishes, or beyond the Limits thereof, as the Case may appear to require, to be in Law the Burial Ground for the Parish or for each of the Parishes for the common Use of which the same is or are provided, and for the Maintenance and due Management and Control of such Burial Ground or Burial Grounds; for securing to the Ministers and others having Rights in respect of Burials in the Burial Grounds in which Interment is to be prohibited Compensation by like Rights in respect of Burials in the Burial Ground or Burial Grounds proposed to be provided or otherwise, and for providing and securing Rights in such Burial Ground or Burial Grounds in substitution for other Rights (which in the Opinion of the Board may require to be compensated)

in Grounds in which Interment is to be prohibited ; for the Election or Appointment of Persons to enter into Contracts for providing such Burial Ground or Burial Grounds, and to maintain and manage the same ; for facilitating the Conveyance of the Bodies of the Dead from the Place of Death to such Burial Ground or Burial Grounds ; for determining the Proportions in which the Expense of providing, maintaining, and managing such Burial Ground or Burial Grounds, where the same is or are provided for the common Use of any Parishes, shall be defrayed by such Parishes respectively ; for prohibiting, after such Burial Ground or Burial Grounds shall be provided, Interment in such Parish or Parishes, except in such Cases as it may appear to the said Board may be specified and excepted ; and generally for and concerning all Matters in relation to such Burial Ground or Burial Grounds as aforesaid, and the Arrangements consequent upon the Prohibition of Interments as aforesaid : Provided always, that all Provisions which shall be set forth in such Scheme concerning the Consecration of the Burial Ground or Burial Grounds to be provided, and concerning the Burial of Members of the United Church of *England* and *Ireland*, and the Compensation to be provided for Rights in respect of Burials and other Rights of Ministers of the said United Church which may be affected by the Prohibition of Interment in Parochial and other Burial Grounds, be approved by the Bishop of the Diocese ; provided also, that such Scheme, with the Reports of the Superintending Inspectors in relation to the Matters thereof, shall be presented to both Houses of Parliament forthwith after the framing thereof, or, if Parliament be not then sitting, within Fourteen Days after the next Meeting thereof.

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XIII. And be it enacted, That in citing this Act in any Act of Parliament, Deed, Instrument, or other Proceeding it shall be sufficient to use the Words "The Nuisances Removal and Diseases Prevention Amendment Act, 1849."

Short Title of
this Act.

XIV. And be it enacted, That this Act may be amended or repealed by any Act to be passed this present Session of Parliament.

Act may be
amended, &c.

SCHEDULE to which this Act refers.

FORM OF SUMMONS.

We, the General Board of Health, [*or* We, whose Names are hereunto set, being Two of the Members of the Board of Health,] do hereby summon and require you personally to appear before the General Board of Health, at _____ in the Parish of _____

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in the County of _____ on _____ next, the
 8 Vic. c. 20. Day of _____ at the Hour of _____ in the _____ noon
 of the same Day, and then and there to be examined, and to testify
 the Truth touching certain Matters with respect to which the Board is
 authorized to enquire.

Sealed with the Seal of the General Board of Health, [or Given
 under our Hands and Seals, and the Seal of the General Board
 of Health,] this _____ Day of _____ in the
 Year of our Lord One thousand eight hundred and _____

APPENDIX.

NO. 4.

RAILWAY CLAUSES CONSOLIDATION ACT.

The following provisions of "the Railway Clauses Consolidation Act, 1845," are by the 15th Section incorporated with the "Act for well ordering of common Lodging Houses," 14th & 15th Vic. c. 28, ante, page 220 appendix, excepting the commencement and interpretation clauses which are added, as the sections incorporated may have to be construed by the Interpretation Clauses of the Act from which they are incorporated. See note to sec. 3, page 6 of the Cheltenham Improvement Act as to the interpretation of words in sections incorporated from other Acts.

ANNO OCTAVO VICTORIÆ REGINÆ.

CAP. XX.

AN ACT FOR CONSOLIDATING IN ONE ACT CERTAIN PROVISIONS
 USUALLY INSERTED IN ACTS AUTHORIZING THE MAKING OF
 RAILWAYS. [8th May 1845.]

WHEREAS it is expedient to comprise in One general Act sundry
 Provisions usually introduced into Acts of Parliament authoriz-
 ing the Construction of Railways, and that, as well for the Purpose of
 avoiding the Necessity of repeating such Provisions in each of the

several Acts relating to such Undertakings, as for ensuring greater Uniformity in the Provisions themselves : And whereas a Bill is now 8 *Appendix No. 4. Vic. c. 20.* pending in Parliament, intituled *An Act for consolidating in One Act certain Provisions usually inserted in Acts authorizing the taking of Lands for undertakings of a public Nature*, and which is intended to be called "The Lands Clauses Consolidation Act, 1845 : " May it therefore please Your Majesty that it may be enacted ; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That this Act shall apply to every Railway which shall by any Act which shall hereafter be passed be authorized to be constructed, and this Act shall be incorporated with such Act ; and all the Clauses and Provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the Undertaking authorized thereby, so far as the same shall be applicable to such Undertaking, and shall, as well as the Clauses and Provisions of every other Act which shall be incorporated with such Act, form Part of such Act, and be construed together therewith as forming One Act.

Operation of this Act confined to future Railways.

And with respect to the Construction of this Act and of other Acts to be incorporated therewith, be it enacted as follows : *Interpretations in this Act :*

II. The Expression "the special Act," used in this Act, shall be construed to mean any Act which shall be hereafter passed authorizing the Construction of a Railway, and with which this Act shall be so incorporated as aforesaid ; and the Word "prescribed," used in this Act in reference to any Matter herein stated, shall be construed to refer to such Matter as the same shall be prescribed or provided for in the special Act ; and the Sentence in which such Word shall occur shall be construed as if, instead of the Word "prescribed," the Expression "prescribed for that Purpose in the special Act" had been used ; and the Expression "the Lands" shall mean the Lands which shall by the special Act be authorized to be taken or used for the Purposes thereof ; and the Expression "the Undertaking" shall mean the Railway and Works, of whatever Description, by the special Act authorized to be executed. *"Special Act :"* *"Prescribed :"* *"The Lands :"* *"The Undertaking."*

III. The following Words and Expressions, both in this and the special Act, shall have the Meanings hereby assigned to them, unless there be something in the Subject or Context repugnant to such Construction ; (that is to say,) *Interpretations in this and the special Act :*

Words importing the Singular Number only shall include the Plural Number ; and Words importing the Plural Number only shall include also the Singular Number :

Words importing the Masculine Gender only shall include Females : Gender :

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"Lands :"
"Lease :"
"Toll :"

The Word "Lands" shall include Messuages, Lands, Tenements, and Hereditaments of any Tenure :

The Word "Lease" shall include an Agreement for a Lease :

The Word "Toll" shall include any Rate or Charge or other Payment payable under the special Act for any Passenger, Animal, Carriage, Goods, Merchandize, Articles, Matters, or Things conveyed on the Railway :

"Goods :"

The Word "Goods" shall include Things of every Kind conveyed upon the Railway :

"Month :"

The Word "Month" shall mean Calendar Month :

"Superior Courts :"

The Expression "Superior Courts" shall mean Her Majesty's Superior Courts of Record at *Westminster* or *Dublin*, as the Case may require :

"Oath :"

The Word "Oath" shall include Affirmation in the Case of Quakers, or other Declaration lawfully substituted for an Oath in the Case of any other Persons exempted by Law from the Necessity of taking an Oath :

"County :"

The Word "County" shall include any Riding or other like Division of a County, and shall also include County of a City or County of a Town :

"The Sheriff :"

The Word "Sheriff" shall include Under Sheriff or other legally competent Deputy ; and where any Matter in relation to any Lands is required to be done by any Sheriff or Clerk of the Peace, the Expression "the Sheriff," or the Expression "the Clerk of the Peace," shall in such Case be construed to mean the Sheriff or the Clerk of the Peace of the County, City, Borough, Liberty, Cinque Port, or Place where such Lands shall be situate ; and if the Lands in question, being the Property of one and the same Party, be situate not wholly in one County, City, Borough, Liberty, Cinque Port, or Place, the same Expression shall be construed to mean the Sheriff or Clerk of the Peace of any County, City, Borough, Liberty, Cinque Port, or Place where any Part of such Lands shall be situate :

"The Clerk of the Peace :"

"Justice :"

The Word "Justice" shall mean Justice of the Peace acting for the County, City, Borough, Liberty, Cinque Port, or Place where the Matter requiring the Cognizance of any such Justice shall arise, and who shall not be interested in the Matter ; (a.) and where such Matter shall arise in respect of Lands, being the Property of one and the same Party, situate not wholly in any one County, City, Borough, Liberty, Cinque Port, or Place, shall mean a Justice acting for the County, City, Borough, Liberty, Cinque Port, or Place where any Part of such Lands shall be situate, and who

(a.) As the Common Lodging Houses Act is not incorporated with the Local Act, the enabling section 127 ante, page 175 may not apply to Justices acting under this Act. As to the recovery of Penalties against Regulations made under the Lodging Houses Act, see section 10, page 219, ante.

shall not be interested in such Matter; and where any Matter shall be authorized or required to be done by Two Justices, the Expression "Two Justices" shall be understood to mean Two Justices assembled and acting together :

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Where under the Provisions of this or the special Act any Notice shall be required to be given to the Owner of any Lands, or where any Act shall be authorized or required to be done with the Consent of any such Owner, the Word "Owner" shall be understood to mean any Person or Corporation who, under the Provisions of this or the special Act, or any Act incorporated therewith, would be enabled to sell and convey Lands to the Company :

"Two Justices :"
"Owner :"

The Expression "the Company" shall mean the Company or Party which shall be authorized by the special Act to construct the Railway :

"The Company :"

The Expression "the Railway" shall mean the Railway and Works by the special Act authorized to be constructed :

"The Railway :"

The Expression "the Board of Trade" shall mean the Lords of the Committee of Her Majesty's Privy Council appointed for Trade and Foreign Plantations :

"Board of
Trade"

The Expression "the Bank" shall mean the Bank of *England*, where the same shall relate to Monies to be paid or deposited in respect of Lands situate in *England*; and shall mean the Bank of *Ireland* where the same shall relate to Monies to be paid or deposited in respect of Lands situate in *Ireland* :

"The Bank :"

The Expression "Turnpike Road" shall, when applied to any Road in *Ireland*, include any Road upon which Her Majesty's Mails are or shall be carried in Mail Carriages; or such other Roads as the Commissioners of Public Works in *Ireland* shall consider to require Arches of greater Width or Height than by this Act is required for public Carriage Roads :

"Turnpike
Road," *Ireland* :

The Expression "Surveyor," applied to a Road or Highway, shall, as to Railways in *Ireland*, include the County Surveyor :

"Surveyor,"
Ireland :

The Expression "Overseers of the Poor," when applied to *Ireland*, shall include the Poor Law Guardians of the Electoral Division and the Clerk of the Guardians of the Union through which such Railway may pass.

"Overseers of
the Poor,"
Ireland.

IV. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression "The Railways Clauses Consolidation Act, 1845."

Short Title of
the Act.

V. And whereas it may be convenient, in some Cases, to incorporate with Acts hereafter to be passed some Portion only of the Provisions of this Act; be it therefore enacted, That, for the Purpose of making any such Incorporation, it shall be sufficient in any such Act to enact

Form in which
Portions of this
Act may be in-
corporated in
other Acts.

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that the Clauses of this Act with respect to the Matter so proposed to be incorporated (describing such Matter as it is described in this Act, in the Words introductory to the Enactment with respect to such Matter,) shall be incorporated with such Act, and thereupon all the Clauses and Provisions of this Act with respect to the Matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form Part of such Act, and such Act shall be construed as if the Substance of such Clauses and Provisions were set forth therein with reference to the Matter to which such Act shall relate.

*Recovery of
Damages
and Penalties.*

Provision for
Damages not
otherwise pro-
vided for.

And with respect to the Recovery of Damages not specially provided for, and of Penalties, and to the Determination of any other Matter referred to Justices, be it enacted as follows :

CXL. In all Cases where any Damages, Costs, or Expences are by this or the special Act, or any Act incorporated therewith, directed to be paid, and the Method of ascertaining the Amount or enforcing the Payment thereof is not provided for, such Amount, in case of Dispute, shall be ascertained and determined by Two Justices ; and if the Amount so ascertained be not paid by the Company or other Party liable to pay the same within Seven Days after Demand, the Amount may be recovered by Distress of the Goods of the Company or other Party liable as aforesaid ; and the Justices by whom the same shall have been ordered to be paid, or either of them, or any other Justice, on Application, shall issue their or his Warrant accordingly.

Distress against
the Treasurer.

CXLI. If sufficient Goods of the Company cannot be found whereon to levy any such Damages, Costs, and Expences payable by the Company, the same may, if the Amount thereof do not exceed Twenty Pounds, be recovered by Distress of the Goods of the Treasurer of the Company ; and the Justices aforesaid, or either of them, on Application, shall issue their or his Warrant accordingly ; but no such Distress shall issue against the Goods of such Treasurer unless Seven Days previous Notice in Writing, stating the Amount so due, and demanding Payment thereof, have been given to such Treasurer, or left at his Residence ; and if such Treasurer pay any Money under such Distress as aforesaid he may retain the Amount so paid by him, and all Cost and Expences occasioned thereby, out of any Money belonging to the Company, coming into his Custody or Control, or he may sue the Company for the same.

Method of Pro-
ceeding before
Justices in
Questions of
Damages, &c.

CXLII. Where in this or the special Act any Question of Compensation, Expences, Charges, or Damages, or other Matter, is referred to the Determination of any One Justice or more, it shall be lawful for any Justice, upon the Application of either Party, to summon the other Party to appear before One Justice, or before Two Justices, as the Case may require, at a Time and Place to be named in such Sum-

mons; and upon the Appearance of such Parties, or in the Absence of any of them, upon Proof of due Service of the Summons, it shall be lawful for such One Justice, or such Two Justices, as the Case may be, to hear and determine such Question, and for that Purpose to examine such Parties or any of them, and their Witnesses, on Oath; and the Cost of every such Inquiry shall be in the Discretion of such Justices, and they shall determine the Amount thereof.

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CXLIII. The Company shall publish the short Particulars of the several Offences for which any Penalty is imposed by this or the special Act, or by any Bye Law of the Company affecting other Persons than the Shareholders, Officers, or Servants of the Company, and of the Amount of every such Penalty, and shall cause such Particulars to be painted on a Board, or printed upon Paper and pasted thereon, and shall cause such Board to be hung up or affixed on some conspicuous Part of the principal Place of Business of the Company, and where any such Penalties are of local Application shall cause such Boards to be affixed in some conspicuous Place in the immediate Neighbourhood to which such Penalties are applicable or have reference; and such Particulars shall be renewed as often as the same or any Part thereof is obliterated or destroyed; and no such Penalty shall be recoverable unless it shall have been published and kept published in the Manner herein-before required.

Publication of Penalties.

CXLIV. If any Person pull down or injure any Board put up or affixed as required by this or the special Act for the Purpose of publishing any Bye Law or Penalty, or shall obliterate any of the Letters or Figures thereon, he shall forfeit for every such Offence a Sum not exceeding Five Pounds, and shall defray the Expences attending the Restoration of such Board.

Penalty for defacing Boards used for such Publication.

CXLV. Every Penalty or Forfeiture imposed by this or the special Act, or by any Bye Law made in pursuance thereof, the Recovery of which is not otherwise provided for, may be recovered by summary Proceeding before Two Justices; and on Complaint being made to any Justice he shall issue a Summons requiring the Party complained against to appear before Two Justices at a Time and Place to be named in such Summons, and every such Summons shall be served on the Party offending either in Person or by leaving the same with some Inmate at his usual Place of Abode; and upon the Appearance of the Party complained against, or in his Absence, after Proof of the due Service of such Summons, it shall be lawful for any Two Justices to proceed to the hearing of the Complaint, and that although no Information in Writing or in Print shall have been exhibited before them; and upon Proof of the Offence, either by the Confession of the Party complained against, or upon the Oath of One credible Witness or more, it shall be lawful for such Justices to convict the Offender,

Penalties to be summarily recovered before Two Justices.

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No. 4.
8 *Vic. c. 20.*

and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit.

Penalties to be
levied by Dis-
tress.

CXLVI. If forthwith upon any such Adjudication as aforesaid the Amount of the Penalty or Forfeiture, and of such Costs as aforesaid, be not paid, the Amount of such Penalty and Costs shall be levied by Distress, and such Justices, or either of them, shall issue their or his Warrant of Distress accordingly.

Imprisonment
in default of
Distress.

CXLVII. It shall be lawful for any such Justice to order any Offender so convicted as aforesaid to be detained and kept in safe Custody until Return can be conveniently made to the Warrant of Distress to be issued for levying such Penalty or Forfeiture and Costs, unless the Offender give sufficient Security, by way of Recognizance or otherwise, to the Satisfaction of the Justice, for his Appearance before him on the Day appointed for such Return, such Day not being more than Eight Days from the Time of taking such Security; but if before issuing such Warrant of Distress it shall appear to the Justice, by the Admission of the Offender or otherwise, that no sufficient Distress can be had within the Jurisdiction of such Justice whereon to levy such Penalty or Forfeiture and Costs, he may, if he thinks fit, refrain from issuing such Warrant of Distress; and in such Case, or if such Warrant shall have been issued, and upon the Return thereof such Insufficiency as aforesaid shall be made to appear to the Justice, then such Justice shall by Warrant cause such Offender to be committed to Gaol, there to remain without Bail for any Term not exceeding Three Months, unless such Penalty or Forfeiture and Costs be sooner paid and satisfied.

Distress how to
be levied.

CXLVIII. Where in this or the special Act, or any Act incorporated therewith, any Sum of Money, whether in the Nature of Penalty or otherwise, is directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the Overplus arising from the Sale of such Goods and Chattels, after satisfying such Sum of Money, and the Expences of the Distress and Sale, shall be returned, on demand, to the Party whose Goods shall have been distrained.

Distress not un-
lawful for Want
of Form.

CXLIX. No Distress levied by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser *ab initio* on account of any Irregularity afterwards committed by him, but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction for the special Damage in an Action upon the Case.

CL. The Justices by whom any such Penalty or Forfeiture shall be imposed may, where the Application thereof is not otherwise provided for, award not more than One Half thereof to the Informer, and shall award the Remainder to the Overseers of the Poor of the Parish in which the Offence shall have been committed, to be applied in aid of the Poor's Rate of such Parish, or if the Place wherein the Offence shall have been committed shall be extra-parochial, then such Justices shall direct such Remainder to be applied in aid of the Poor's Rate of such extra-parochial Place, or, if there shall not be any Poor's Rate therein, in aid of the Poor's Rate of any adjoining Parish or District.

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8 Vic. c. 20.
Application of
Penalties.*

CLI. No Person shall be liable to the Payment of any Penalty or Forfeiture imposed by virtue of this or the special Act, or any Act incorporated therewith, for any Offence made cognizable before a Justice, unless the Complaint respecting such Offence shall have been made before such Justice within Six Months next after the Commission of such Offence.

*Penalties to be
sued for within
Six Months.*

CLII. If, through any Act, Neglect, or Default on account whereof any Person shall have incurred any Penalty imposed by this or the special Act, any Damage to the Property of the Company shall have been committed by such Person, he shall be liable to make good such Damage as well as to pay such Penalty; and the Amount of such Damages shall, in case of Dispute, be determined by the Justices by whom the Party incurring such Penalty shall have been convicted; and on Nonpayment of such Damages, on demand, the same shall be levied by Distress, and such Justices, or One of them, shall issue their or his Warrant accordingly.

*Damage to be
made good in
addition to
Penalty.*

CLIII. It shall be lawful for any Justice to summon any Person to appear before him as a Witness in any Matter in which such Justice shall have Jurisdiction under the Provisions of this or the special Act, at a Time and Place mentioned in such Summons, and to administer to him an Oath to testify the Truth in such Matter; and if any Person so summoned shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expences, or if any Person appearing shall refuse to be examined upon Oath or to give Evidence before such Justice, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

*Penalty on Wit-
nesses making
Default.*

CLIV. It shall be lawful for any Officer or Agent of the Company, and all Persons called by him to his Assistance, to seize and detain any Person who shall have committed any Offence against the Provisions of this or the special Act, and whose Name and Residence shall be unknown to such Officer or Agent, and convey him, with all convenient Despatch, before some Justice, without any Warrant or other Autho-

*Transient
Offenders.*

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No. 4.

8 *Vic. c. 20.*

Form of Con-
viction.

Proceedings not
to be quashed
for Want of
Form, &c.

Parties allowed
to appeal to
Quarter Sessions
on giving Secu-
rity.

Court to make
such Order as
they think rea-
sonable.

Receiver of
Metropolitan
Police District
to receive Pen-
alties incurred
within his Dis-
trict.

ality than this or the special Act; and such Justice shall proceed with all convenient Despatch to the hearing and determining of the Complaint against such Offender.

CLV. The Justices before whom any Person shall be convicted of any Offence against this or the special Act, or any Act incorporated therewith, may cause the Conviction to be drawn up according to the Form in the Schedule to this Act annexed.

CLVI. No Proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for Want of Form, nor shall the same be removed by Certiorari or otherwise into any of the Superior Courts.

CLVII. If any Party shall feel aggrieved by any Determination or Adjudication of any Justice with respect to any Penalty or Forfeiture under the Provisions of this or the special Act, or any Act incorporated therewith, such Party may appeal to the General Quarter Sessions for the County or Place in which the Cause of Appeal shall have arisen; but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Determination or Adjudication, nor unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, nor unless the Appellant forthwith after such Notice enter into Recognizances, with Two sufficient Sureties, before a Justice, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

CLVIII. At the Quarter Sessions for which such Notice shall be given the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to the following Sessions; and upon the hearing of such Appeal the Court may, if they think fit, mitigate any Penalty or Forfeiture, or they may confirm or quash the Adjudication, and order any Money paid by the Appellant, or levied by Distress upon his Goods, to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable; and they may make such Order concerning the Costs, both of the Adjudication and of the Appeal, as they may think reasonable.

CLIX. Provided always, and be it enacted, That notwithstanding any thing herein or in the special Act, or any Act incorporated therewith, contained, every Penalty or Forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any Bye Law in pursuance thereof, in respect of any Offence which shall take place within the Metropolitan Police District, shall be recovered, enforced, accounted for, and, except where the Application thereof is otherwise specially provided for, shall be paid to the Receiver of the Metro-

politan Police District, and shall be applied in the same Manner as Penalties or Forfeitures, other than Fines upon drunken Persons, or upon Constables for Misconduct, or for Assaults upon Police Constables, are directed to be recovered, enforced, accounted for, paid, and applied by an Act passed in the Third Year of the Reign of Her present Majesty, intituled *An Act for regulating the Police Courts in the Metropolis*; and every Order or Conviction of any of the Police Magistrates in respect of any such Forfeiture or Penalty shall be subject to the like Appeal, and upon the same Terms, as is provided in respect of any Order or Conviction of any of the said Police Magistrates by the said last-mentioned Act; and every Magistrate by whom any Order or Conviction shall have been made shall have the same Power of binding over the Witnesses who shall have been examined, and such Witnesses shall be entitled to the same Allowance of Expenses as he or they would have had or been entitled to in case the Order, Conviction, and Appeal had been made in pursuance of the Provisions of the said last-mentioned Act.

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No. 4

8 *Vic. c. 20.*

2 & 3 *Vict. c. 71*

CLX. And be it enacted, That every Person who, upon any Examination upon Oath, under the Provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false Evidence, shall be liable to the Penalties of wilful and corrupt Perjury.

Persons giving
false Evidence
liable to Penalties
of Perjury.

CLXI. And be it declared and enacted, That all Sums of Money which have been or shall be paid into the Bank of Ireland in the Name and with the Privy of the Accountant General of the Court of Chancery of Ireland, under the Provisions of an Act passed in the Second Year of the Reign of Her present Majesty, intituled *An Act to provide for the Custody of certain Monies paid in pursuance of the Standing Orders of either House of Parliament by Subscribers to Works or Undertakings to be effected under the Authority of Parliament*, shall and may be paid out and applied under any Order of the said Court of Chancery exempt from Ushers Poundage.

Money paid into
the Bank of Ire-
land to be exempt
from Ushers
Poundage.

1 & 2 *Vict. c. 117.*

(a.) SCHEDULE referred to by the foregoing Act.

to wit.

BE it remembered, That on the
in the Year of our Lord
us, C., D., Two of Her Majesty's Justices of the Peace for the County
of

Day of

A. B. is convicted before

[here describe the Offence generally, and the

(a.) It will be observed that though the foregoing provisions are incorporated with the Lodging Houses Act, sec. 15, ante, page 220, no reference is made to the Schedule.

Appendix
No. 5 *Time and Place when and where committed*], contrary to the [*here*
 8 *Vic. c. 16.* *name the special Act*]. Given under our Hands and Seals the Day
 and Year first above written.

C.
 D.

APPENDIX.

No. 5.

COMPANIES CLAUSES CONSOLIDATION ACT.

The following provisions of the "Companies Clauses Consolidation Act, 1845," are incorporated with the 9th and 10th Vict. c. 74, intituled, "An Act to encourage the establishment of Public Baths and Wash-houses," by section 23, ante appendix 205 ; and are incorporated with the 14th and 15th Vict. c. 84, intituled "An Act to encourage the establishment of Lodging Houses for the Labouring Classes," by section 33, (see ante, page 230 Appendix ;) excepting in both Cases the commencement and interpretation Clauses which are added, as the incorporated provisions may be interpreted by the Interpretation Clause of the Act, from which they are incorporated. See note to section 3, page 6 of the Cheltenham Improvement Act, as to the Interpretation of words in sections incorporated from other Acts.

ANNO OCTAVO VICTORIÆ REGINÆ.

CAP. XVI.

AN ACT FOR CONSOLIDATING IN ONE ACT CERTAIN PROVISIONS
 USUALLY INSERTED IN ACTS WITH RESPECT TO THE CONSTITUTION OF COMPANIES INCORPORATED FOR CARRYING ON
 UNDERTAKINGS OF A PUBLIC NATURE. [8th May 1845.]

WHEREAS it is expedient to comprise in One General Act sundry Provisions relating to the Constitution and Management of Joint Stock Companies usually introduced into Acts of Parliament authorizing the Execution of Undertakings of a public Nature by such Companies, and that as well for the Purpose of avoiding the Necessity of repeating such Provisions in each of the several Acts relating to such Under-

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No. 5.*

8 Vic. c. 16.

takings as for ensuring greater Uniformity in the Provisions themselves : May it therefore please Your Majesty that it may be enacted ; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That this Act shall apply to every Joint Stock Company which shall by any Act which shall hereafter be passed be incorporated for the Purpose of carrying on any Undertaking, and this Act shall be incorporated with such Act ; and all the Clauses and Provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the Company which shall be incorporated by such Act, and to the Undertaking for carrying on which such Company shall be incorporated, so far as the same shall be applicable thereto respectively ; and such Clauses and Provisions, as well as the Clauses and Provisions of every other Act which shall be incorporated with such Act, shall, save as aforesaid, form Part of such Act, and be construed together therewith as forming One Act.

Act to apply to all Companies incorporated by Acts hereafter to be passed.

II. And with respect to the Construction of this Act, and of other Acts to be incorporated therewith, be it enacted as follows :

Interpretations in this Act :

The Expression " the special Act " used in this Act shall be construed to mean any Act which shall be hereafter passed incorporating a Joint Stock Company for the Purpose of carrying on any Undertaking, and with which this Act shall be so incorporated as aforesaid ; and the Word " prescribed " used in this Act, in reference to any Matter herein stated, shall be construed to refer to such Matter as the same shall be prescribed or provided for in the special Act ; and the Sentence in which such Word shall occur shall be construed as if instead of the Word " prescribed " the Expression " prescribed for that Purpose in the special Act " had been used ; and the Expression " the Undertaking " shall mean the Undertaking or Works, of whatever Nature, which shall by the special Act be authorized to be executed.

" The special Act : "

" Prescribed : "

" The Undertaking : "

III. The following Words and Expressions both in this and the special Act shall have the several Meanings hereby assigned to them, unless there be something in the Subject or the Context repugnant to such Construction ; (that is to say,)

Interpretations in this and the special Act :

Words importing the Singular Number only shall include the Plural Number ; and Words importing the Plural Number only shall include the Singular Number :

Words importing the Masculine Gender only shall include Females : Gender :

The Word " Lands " shall extend to Messuages, Lands, Tenements, and Hereditaments of any Tenure.

The Word " Lease " shall include an Agreement for a Lease :

" Lease : "

The Word " Month " shall mean Calendar Month :

" Month : "

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8 Vic. c. 16.

"Superior
Courts :"
"Oath :"

The Expression "Superior Courts" shall mean Her Majesty's Superior Courts of Record at *Westminster* or *Dublin*, as the Case may require :

The Word "Oath" shall include Affirmation in the Case of Quakers, or other Declaration lawfully substituted for an Oath in the Case of any other Persons exempted by Law from the Necessity of taking an Oath :

"County :"

The Word "County" shall include any Riding or other like Division of a County, and shall also include County of a City or County of a Town :

"Justice :"

The Word "Justice" shall mean Justice of the Peace acting for the County, City, Borough, Liberty, Cinque Port, or other Place where the Matter requiring the Cognizance of any such Justice shall arise, and who shall not be interested in the Matter ; (a.) and where any Matter shall be authorized or required to be done by

"Two Justices :"

Two Justices the Expression "Two Justices" shall be understood to mean Two Justices assembled and acting together in Petty Sessions :

"The Company :"

The Expression "the Company" shall mean the Company constituted by the special Act :

"Directors :"

The Expression "the Directors" shall mean the Directors of the Company, and shall include all Persons having the Direction of the Undertaking, whether under the Name of Directors, Managers, Committee of Management, or under any other Name :

"Shareholder :"

The Word "Shareholder" shall mean Shareholder, Proprietor, or Member of the Company ; and in referring to any such Shareholder Expressions properly applicable to a Person shall be held to apply to a Corporation : And

"Secretary :"

The Expression "the Secretary" shall mean the Secretary of the Company, and shall include the Word "Clerk."

Short Title of
the Act.

IV. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression "The Companies Clauses Consolidation Act, 1845."

Form in which
Portions of this
Act may be in-
corporated with
other Acts.

V. And whereas it may be convenient in some Cases to incorporate with Acts of Parliament hereafter to be passed some Portion only of the Provisions of this Act : Be it therefore enacted, That for the Purpose of making any such Incorporation it shall be sufficient in any such Act to enact that the Clauses and Provisions of this Act, with respect to the Matter so proposed to be incorporated (describing such Matter as it is described in this Act in the Words introductory to the Enactment with respect to such Matter), shall be incorporated with such Act ; and thereupon all the Clauses and Provisions of this Act

(a.) See note to page 266, ante.

with respect to the Matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form Part of such Act, and such Act shall be construed as if the Substance of such Clauses and Provisions were set forth therein with reference to the Matter to which such Act shall relate.

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No. 5.*

8 *Vic. c. 16.*

And with respect to the borrowing of Money by the Company on Mortgage or Bond, be it enacted as follows :

*Power to
borrow
Money.*

*Power to borrow
Money.*

XXXVIII. If the Company be authorized by the special Act to borrow Money on Mortgage or Bond, it shall be lawful for them, subject to the Restrictions contained in the special Act, to borrow on Mortgage or Bond such Sums of Money as shall from Time to Time by an Order of a General Meeting of the Company be authorized to be borrowed, not exceeding in the whole the Sum prescribed by the special Act, and for securing the Repayment of the Money so borrowed, with Interest, to mortgage the Undertaking, and the future Calls on the Shareholders, or to give Bonds in manner herein-after mentioned.

XXXIX. If, after having borrowed any Part of the Money so authorized to be borrowed on Mortgage or Bond, the Company pay off the same, it shall be lawful for them again to borrow the Amount so paid off, and so from Time to Time ; but such Power of re-borrowing shall not be exercised without the Authority of a General Meeting of the Company, unless the Money be so re-borrowed in order to pay off any existing Mortgage or Bond.

*Power to re-
borrow.*

XL. Where by the special Act the Company shall be restricted from borrowing any Money on Mortgage or Bond until a definite Portion of their Capital shall be subscribed or paid up, or where by this or the special Act the Authority of a General Meeting is required for such borrowing, the Certificate of a Justice that such definite Portion of the Capital has been subscribed or paid up, and a Copy of the Order of a General Meeting of the Company authorizing the borrowing of any Money, certified by One of the Directors or by the Secretary to be a true Copy, shall be sufficient Evidence of the Fact of the Capital required to be subscribed or paid up having been so subscribed or paid up, and of the Order for borrowing Money having been made ; and upon Production to any Justice of the Books of the Company, and of such other Evidence as he shall think sufficient, such Justice shall grant the Certificate aforesaid.

*Evidence of Au-
thority for
borrowing.*

XLI. Every Mortgage and Bond for securing Money borrowed by the Company shall be by Deed under the Common Seal of the Com-

*Mortgages and
Bonds to be
stamped.*

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No. 5.

Vic. c. 16.

pany, duly stamped, and wherein the Consideration shall be truly stated; and every such Mortgage Deed or Bond may be according to the Form in the Schedule (C.) or (D.) to this Act annexed, or to the like Effect.

Rights of Mortgagees.

XLII. The respective Mortgagees shall be entitled one with another to their respective Proportions of the Tolls, Sums, and Premises comprised in such Mortgages, and of the future Calls payable by the Shareholders, if comprised therein, according to the respective Sums in such Mortgages mentioned to be advanced by such Mortgagees respectively, and to be repaid the Sums so advanced, with Interest, without any Preference one above another by reason of Priority of the Date of any such Mortgage, or of the Meeting at which the same was authorized.

Application of Calls, notwithstanding Mortgage.

XLIII. No such Mortgage (although it should comprise future Calls on the Shareholders) shall, unless expressly so provided, preclude the Company from receiving and applying to the Purposes of the Company any Calls to be made by the Company.

Rights of Obligees.

XLIV. The respective Obligees in such Bonds shall, proportionally according to the Amount of the Monies secured thereby, be entitled to be paid, out of the Tolls or other Property or Effects of the Company, the respective Sums in such Bonds mentioned, and thereby intended to be secured, without any Preference one above another by reason of Priority of Date of any such Bond, or of the Meeting at which the same was authorized, or otherwise howsoever.

Register of Mortgages and Bonds.

XLV. A Register of Mortgages and Bonds shall be kept by the Secretary, and within Fourteen Days after the Date of any such Mortgage or Bond an Entry or Memorial, specifying the Number and Date of such Mortgage or Bond, and the Sums secured thereby, and the Names of the Parties thereto, with their proper Additions, shall be made in such Register; and such Register may be perused at all reasonable Times by any of the Shareholders, or by any Mortgagee or Bond Creditor of the Company, or by any Person interested in any such Mortgage or Bond, without Fee or Reward.

Transfer of Mortgages and Bonds to be stamped.

XLVI. Any Party entitled to any such Mortgage or Bond may from Time to Time transfer his Right and Interest therein to any other Person; and every such Transfer shall be by Deed duly stamped, wherein the Consideration shall be truly stated; and every such Transfer may be according to the Form in the Schedule (E.) to this Act annexed, or to the like Effect.

Transfers of Mortgages and Bonds to be registered.

XLVII. Within Thirty Days after the Date of every such Transfer, if executed within the United Kingdom, or otherwise within Thirty Days after the Arrival thereof in the United Kingdom, it shall be produced to the Secretary, and thereupon the Secretary shall cause an

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No. 5.*

8 *Vic. c. 16.*

Entry or Memorial thereof to be made in the same Manner as in the Case of the original Mortgage ; and after such Entry every such Transfer shall entitle the Transferee to the full Benefit of the original Mortgage or Bond in all respects ; and no Party, having made such Transfer, shall have Power to make void, release, or discharge the Mortgage or Bond so transferred, or any Money thereby secured ; and for such Entry the Company may demand a Sum not exceeding the prescribed Sum, or, where no Sum shall be prescribed, the Sum of Two Shillings and Sixpence ; and until such Entry the Company shall not be in any Manner responsible to the Transferee in respect of such Mortgage.

XLVIII. The Interest of the Money borrowed upon any such Mortgage or Bond shall be paid at the Periods appointed in such Mortgage or Bond, and if no Period be appointed, half-yearly, to the several Parties entitled thereto, and in preference to any Dividends payable to the Shareholders of the Company.

*Payment of
Interest on
Monies bor-
rowed.*

XLIX. The Interest on any such Mortgage or Bond shall not be transferable, except by Deed duly stamped.

*Transfers of
Interest to be
stamped.*

L. The Company may, if they think proper, fix a Period for the Repayment of the Principal Money so borrowed, with the Interest thereof, and in such Case the Company shall cause such Period to be inserted in the Mortgage Deed or Bond ; and upon the Expiration of such Period the Principal Sum, together with the Arrears of Interest thereon, shall, on Demand, be paid to the Party entitled to such Mortgage or Bond ; and if no other Place of Payment be inserted in such Mortgage Deed or Bond, such Principal and Interest shall be payable at the principal Office or Place of Business of the Company.

*Repayment of
Money borrowed
at a Time fixed.*

LI. If no Time be fixed in the Mortgage Deed or Bond for the Repayment of the Money so borrowed, the Party entitled to the Mortgage or Bond may, at the Expiration or at any Time after the Expiration of Twelve Months from the Date of such Mortgage or Bond, demand Payment of the Principal Money thereby secured, with all Arrears of Interest, upon giving Six Months previous Notice for that Purpose ; and in the like Case the Company may at any Time pay off the Money borrowed, on giving the like Notice ; and every such Notice shall be in Writing or Print, or both, and if given by a Mortgagee or Bond Creditor shall be delivered to the Secretary or left at the principal Office of the Company, and if given by the Company shall be given either personally to such Mortgagee or Bond Creditor or left at his Residence, or if such Mortgagee or Bond Creditor be unknown to the Directors, or cannot be found after diligent Inquiry, such Notice shall be given by Advertisement in the *London or Dublin Gazette*, according as the principal Office of the Company shall be in *England or Ireland*, and in some Newspaper as after mentioned.

*Repayment of
Money borrowed
where no Time
fixed.*

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No. 5.

8 Vic. c. 16.
Interest to cease
on Expiration of
Notice to pay off
Mortgage or
Bond.

LII. If the Company shall have given Notice of their Intention to pay off any such Mortgage or Bond at a Time when the same may lawfully be paid off by them, then at the Expiration of such Notice all further Interest shall cease to be payable on such Mortgage or Bond, unless, on Demand of Payment made pursuant to such Notice, or at any Time thereafter, the Company shall fail to pay the Principal and Interest due at the Expiration of such Notice on such Mortgage or Bond.

Arrears of In-
terest, when to
be enforced by
Appointment of
a Receiver.

LIII. Where by the special Act the Mortgagees of the Company shall be empowered to enforce the Payment of the Arrears of Interest, or the Arrears of Principal and Interest, due on such Mortgages, by the Appointment of a Receiver, then, if within Thirty Days after the Interest accruing upon any such Mortgage has become payable, and after Demand thereof in Writing, the same be not paid, the Mortgagee may, without Prejudice to his Right to sue for the Interest so in arrear in any of the Superior Courts of Law or Equity, require the Appointment of a Receiver, by an Application to be made as herein-after provided; and if within Six Months after the Principal Money owing upon any such Mortgage has become payable, and after Demand thereof in Writing, the same be not paid, the Mortgagee, without Prejudice to his Right to sue for such Principal Money, together with all Arrears of Interest, in any of the Superior Courts of Law or Equity, may, if his Debt amount to the prescribed Sum, alone, or if his Debt does not amount to the prescribed Sum he may, in conjunction with other Mortgagees whose Debts, being so in arrear, after Demand as aforesaid, shall, together with his, amount to the prescribed Sum, require the Appointment of a Receiver, by an Application to be made as herein-after provided.

Arrears of Prin-
cipal and In-
terest.

Appointment of
Receiver.

LIV. Every Application for a Receiver in the Cases aforesaid shall be made to Two Justices, and on any such Application it shall be lawful for such Justices, by Order in Writing, after hearing the Parties, to appoint some Person to receive the whole or a competent Part of the Tolls or Sums liable to the Payment of such Interest, or such Principal and Interest, as the Case may be, until such Interest, or until such Principal and Interest, as the Case may be, together with all Costs, including the Charges of receiving the Tolls or Sums aforesaid, be fully paid; and upon such Appointment being made all such Tolls and Sums of Money as aforesaid shall be paid to and received by the Person so to be appointed; and the Money so to be received shall be so much Money received by or to the Use of the Party to whom such Interest, or such Principal and Interest, as the Case may be, shall be then due, and on whose Behalf such Receiver shall have been appointed; and after such Interest and Costs, or such Principal Interest, and Costs, have been so received, the Power of such Receiver shall cease.

LV. At all seasonable Times the Books of Account of the Company shall be open to the Inspection of the respective Mortgagees and Bond Creditors thereof, with Liberty to take Extracts therefrom, without Fee or Reward.

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No. 5.*

*8 Vic. c. 16.
Access to Account Books by Mortgagees.*

And with respect to the Accountability of the Officers of the Company, be it enacted as follows :

*Account-
ability of
Officers.*

CIX. Before any Person intrusted with the Custody or Control of Monies, whether Treasurer, Collector, or other Officer of the Company, shall enter upon his Office, the Directors shall take sufficient Security from him for the faithful Execution of his Office.

*Security to be
taken from
Officers intrusted
with Money.*

CX. Every Officer employed by the Company shall from Time to Time, when required by the Directors, make out and deliver to them, or to any Person appointed by them for that Purpose, a true and perfect Account in Writing under his Hand of all Monies received by him on behalf of the Company ; and such Account shall state how, and to whom, and for what Purpose such Monies shall have been disposed of ; and, together with such Account, such Officer shall deliver the Vouchers and Receipts for such Payments ; and every such Officer shall pay to the Directors, or to any Person appointed by them to receive the same, all Monies which shall appear to be owing from him upon the Balance of such Accounts.

*Officers to
account, on
Demand.*

CXI. If any such Officer fail to render such Account, or to produce and deliver up all the Vouchers and Receipts relating to the same in his Possession or Power, or to pay the Balance thereof, when thereunto required, or if for Three Days after being thereunto required he fail to deliver up to the Directors, or to any Person appointed by them to receive the same, all Papers and Writings, Property, Effects, Matters, and Things, in his Possession or Power, relating to the Execution of this or the special Act, or any Act incorporated therewith, or belonging to the Company, then, on Complaint thereof being made to a Justice, such Justice shall summon such Officer to appear before Two or more Justices at a Time and Place to be set forth in such Summons, to answer such Charge ; and upon the Appearance of such Officer, or in his Absence upon Proof that such Summons was personally served upon him, or left at his last known Place of Abode, such Justices may hear and determine the Matter in a summary Way, and may adjust and declare the Balance owing by such Officer ; and if it appear, either upon Confession of such Officer, or upon Evidence, or upon Inspection of the Account, that any Monies of the Company are in the Hands of such Officer, or owing by him to the Company, such Justices may order such Officer to pay the same, and if he fail to pay the Amount it shall

*Summary Remedy against
Parties failing
to account.*

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be lawful for such Justices to grant a Warrant to levy the same by Distress, or, in default thereof, to commit the Offender to Gaol, there to remain without Bail for a Period not exceeding Three Months, unless the same be sooner paid.

Officers refusing to deliver up Documents, &c. to be imprisoned.

CXII. If any such Officer refuse to make out such Account in Writing, or to produce and deliver to the Justices the several Vouchers and Receipts relating thereto, or to deliver up any Books, Papers, or Writings, Property, Effects, Matters, or Things, in his Possession or Power, belonging to the Company, such Justices may lawfully commit such Offender to Gaol, there to remain until he shall have delivered up all the Vouchers and Receipts, if any, in his Possession or Power, relating to such Accounts, and have delivered up all Books, Papers, Writings, Property, Effects, Matters, and Things, if any, in his Possession or Power, belonging to the Company.

Where Officer about to abscond a Warrant may be issued in the first instance.

CXIII. Provided always, That if any Director or other Person acting on behalf of the Company shall make Oath that he has good Reason to believe, upon Grounds to be stated in his Deposition, and does believe, that it is the Intention of any such Officer as aforesaid to abscond, it shall be lawful for the Justice before whom the Complaint is made, instead of issuing his Summons, to issue his Warrant for the bringing such Officer before such Two Justices as aforesaid; but no Person executing such Warrant shall keep such Officer in Custody longer than Twenty-four Hours without bringing him before some Justice; and it shall be lawful for the Justice before whom such Officer may be brought, either to discharge such Officer, if he think there is no sufficient Ground for his Detention, or to order such Officer to be detained in Custody, so as to be brought before Two Justices, at a Time and Place to be named in such Order, unless such Officer give Bail to the Satisfaction of such Justice for his Appearance before such Justices to answer the Complaint of the Company.

Sureties not to be discharged.

CXIV. No such Proceeding against or Dealing with any such Officer as aforesaid shall deprive the Company of any Remedy which they might otherwise have against such Officer, or any Surety of such Officer.

Byelaws.

And with respect to the making of Byelaws, be it enacted as follows:

Power to make Byelaws for the Officers of the Company.

CXXIV. It shall be lawful for the Company from Time to Time to make such Byelaws as they think fit, for the Purpose of regulating the Conduct of the Officers and Servants of the Company, and for providing for the due Management of the Affairs of the Company in all respects whatsoever, and from Time to Time to alter or repeal any

such Byelaws, and make others, provided such Byelaws be not repugnant to the Laws of that Part of the United Kingdom where the same are to have effect, or to the Provisions of this or the special Act; and such Byelaws shall be reduced into Writing, and shall have affixed thereto the Common Seal of the Company; and a Copy of such Byelaws shall be given to every Officer and Servant of the Company affected thereby.

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8 *Vic. c. 16.*

CXXV. It shall be lawful for the Company, by such Byelaws, to impose such reasonable Penalties upon all Persons, being Officers or Servants of the Company, offending against such Byelaws, as the Company think fit, not exceeding Five Pounds for any One Offence.

*Fines for Breach
of such Byelaws.*

CXXVI. All the Byelaws to be made by the Company shall be so framed as to allow the Justice before whom any Penalty imposed thereby may be sought to be recovered to order a Part only of such Penalty to be paid, if such Justice shall think fit.

*Byelaws to be
so framed as
that Penalties
may be miti-
gated.*

CXXVII. The Production of a written or printed Copy of the Byelaws of the Company, having the Common Seal of the Company affixed thereto, shall be sufficient Evidence of such Byelaws in all Cases of Prosecution under the same. (*a.*)

*Evidence of
Byelaws.*

And with respect to the Recovery of Damages not specially provided for, and Penalties, be it enacted as follows :

*Recovery of
Damages
and
Penalties.*

CXLII. In all Cases where any Damages, Costs, or Expenses are by this or the special Act, or any Act incorporated therewith, directed to be paid, and the Method of ascertaining the Amount or enforcing the Payment thereof is not provided for, such Amount, in case of Dispute, shall be ascertained and determined by Two Justices; and if the Amount so ascertained be not paid by the Company or other Party liable to pay the same within Seven Days after Demand, the Amount may be recovered by Distress of the Goods of the Company or other Party liable as aforesaid; and the Justices by whom the same shall have been ordered to be paid, or either of them, on Application, shall issue their or his Warrant accordingly.

*Provision for
Damages not
otherwise
provided for.*

CXLIII. If sufficient Goods of the Company cannot be found whereon to levy any such Damages, Costs, or Expenses payable by the Company, the same may, if the Amount thereof do not exceed Twenty Pounds, be recovered by Distress of the Goods of the Treasurer of the

*Distress against
the Treasurer.*

(*a.*) See section 115 of the Public Health Act incorporated by section 25 of the Local Act, ante page 39 as to how Byelaws under the Local Act are to be made or authenticated. The Byelaws made under these clauses as incorporated with the Labouring Classes Lodging Houses Act, will be regulated by the clauses of this Companies' Clauses Consolidation Act, but as to the Public Baths Act, see notes to sections 23 and 30, ante, appendix, pages 295 and 306.

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8 Vic. c. 16.

Company ; and the Justices aforesaid, or either of them, on Application, shall issue their or his Warrant accordingly ; but no such Distress shall issue against the Goods of such Treasurer unless Seven Days previous Notice in Writing, stating the Amount so due, and demanding Payment thereof, have been given to such Treasurer or left at his residence ; and if such Treasurer pay any Money under such Distress as aforesaid, he may retain the Amount so paid by him, and all Costs and Expenses occasioned thereby, out of any Money belonging to the Company coming into his Custody or Control, or he may sue the Company for the same.

Method of proceeding before Justices in Questions of Damages, &c.

CXLIV. Where in this or the special Act, or any Act incorporated therewith, any Question of Compensation, Expenses, Charges, or Damages is referred to the Determination of any One Justice, or more, it shall be lawful for any Justice, upon the Application of either Party, to summon the other Party to appear before One Justice, or before Two Justices, as the Case may require, at a Time and Place to be named in such Summons ; and upon the Appearance of such Parties, or in the Absence of any of them, upon Proof of due Service of the Summons, it shall be lawful for such One Justice, or such Two Justices, as the Case may be, to hear and determine such Question, and for that Purpose to examine such Parties or any of them, and their Witnesses, on Oath ; and the Costs of every such Inquiry shall be in the Discretion of such Justices, and they shall determine the Amount thereof.

Publication of Penalties.

CXLV. The Company shall publish the short Particulars of the several Offences for which any Penalty is imposed by this or the special Act, or any Act, incorporated therewith, or by any Byelaw of the Company affecting other Persons than the Shareholders, Officers, or Servants of the Company, and of the Amount of every such Penalty, and shall cause such Particulars to be painted on a Board, or printed upon Paper and pasted thereon, and shall cause such Board to be hung up or affixed on some conspicuous Part of the principal Place of Business of the Company, and where any such Penalties are of local Application shall cause such Boards to be affixed in some conspicuous Place in the immediate Neighbourhood to which such Penalties are applicable or have Reference ; and such Particulars shall be renewed as often as the same or any Part thereof is obliterated or destroyed ; and no such Penalty shall be recoverable unless it shall have been published and kept published in the Manner herein-before required.

Penalty for defacing Boards used for such Publication.

CXLVI. If any Person pull down or injure any Board put up or affixed as required by this or the special Act, or any Act incorporated therewith, for the Purpose of publishing any Byelaw or Penalty, or shall obliterate any of the Letters or Figures thereon, he shall forfeit for every such Offence a Sum not exceeding Five Pounds, and shall defray the Expenses attending the Restoration of such Board.

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8 *Vic. c. 20.*

Penalties to be
summarily re-
covered before
Two Justices.

CXLVII. Every Penalty or Forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any Byelaw made in pursuance thereof, the Recovery of which is not otherwise provided for, may be recovered by summary Proceeding before Two Justices; and on Complaint being made to any Justice he shall issue a Summons, requiring the Party complained against to appear before Two Justices at a Time and Place to be named in such Summons; and every such Summons shall be served on the Party offending, either in Person or by leaving the same with some Inmate at his usual Place of Abode; and upon the Appearance of the Party complained against, or in his Absence, after Proof of the due Service of such Summons, it shall be lawful for Two Justices to proceed to the Hearing of the Complaint, and that although no Information in Writing or in Print shall have been exhibited before them; and upon Proof of the Offence, either by the Confession of the Party complained against or upon the Oath of One credible Witness or more, it shall be lawful for such Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit.

Penalties may
be levied by
Distress.

CXLVIII. If forthwith upon any such Adjudication as aforesaid the Amount of the Penalty or Forfeiture, and of such Costs as aforesaid, be not paid, the Amount of such Penalty and Costs shall be levied by Distress; and such Justices, or either of them, shall issue their or his Warrant of Distress accordingly.

Imprisonment
in default of
Distress.

CXLIX. It shall be lawful for any such Justice to order any Offender so convicted as aforesaid to be detained and kept in safe Custody until Return can be conveniently made to the Warrant of Distress to be issued for levying such Penalty or Forfeiture, and Costs, unless the Offender give sufficient Security, by way of Recognizance or otherwise, to the Satisfaction of the Justice, for his Appearance before him on the Day appointed for such Return, such Day not being more than Eight Days from the Time of taking such Security; but if before issuing such Warrant of Distress it shall appear to the Justice, by the Admission of the Offender or otherwise, that no sufficient Distress can be had within the Jurisdiction of such Justice whereon to levy such Penalty or Forfeiture, and Costs, he may, if he thinks fit, refrain from issuing such Warrant of Distress; and in such Case, or if such Warrant shall have been issued, and upon the Return thereof such Insufficiency as aforesaid shall be made to appear to the Justice, then such Justice shall, by Warrant, cause such Offender to be committed to Gaol, there to remain without Bail for any Term not exceeding Three Months, unless such Penalty or Forfeiture, and Costs, be sooner paid and satisfied.

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*No. 5.*8 Vic. c. 16.
Distress how to
be levied.

CL. Where in this or the special Act, or any Act incorporated therewith, any Sum of Money, whether in the Nature of Penalty or otherwise, is directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the Overplus arising from the Sale of such Goods and Chattels, after satisfying such Sum of Money, and the Expenses of the Distress and Sale, shall be returned, on Demand, to the Party whose Goods shall have been distrained.

Distress not un-
lawful for Want
of Form.

CLII. No Distress levied by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser *ab initio* on account of any Irregularity afterwards committed by him, but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction for the special Damage in an Action upon the Case.

Application of
Penalties.

CLII. The Justices by whom any such Penalty or Forfeiture shall be imposed may, where the Application thereof is not otherwise provided for, award not more than One Half thereof to the Informer, and shall award the Remainder to the Overseers of the Poor of the Parish in which the Offence shall have been committed, for the Benefit of the Poor of such Parish; or if the Place wherein the Offence shall have been committed shall be extra-parochial, then such Justices shall direct such Remainder to be applied for the Benefit of the Poor of such extra parochial Place, or of any adjoining Parish or District, and shall order the same to be paid over to the proper Officer for that Purpose.

Penalties to be
sued for within
Six Months.

CLIII. No Person shall be liable to the Payment of any Penalty or Forfeiture imposed by virtue of this or the special Act, or any Act incorporated therewith, for any Offence made cognizable before a Justice, unless the Complaint respecting such Offence shall have been made before such Justice within Six Months next after the Commission of such Offence.

Damage to be
made good in
addition to
Penalty.

CLIV. If, through any Act, Neglect, or Default on account whereof any Person shall have incurred any Penalty imposed by this or the special Act, or any Act incorporated therewith, any Damage to the Property of the Company shall have been committed by such Person, he shall be liable to make good such Damage, as well as to pay such Penalty; and the Amount of such Damages shall, in case of Dispute, be determined by the Justices by whom the Party incurring such Penalty shall have been convicted; and on Nonpayment of such Damages, on Demand, the same shall be levied by Distress, and such Justices, or One of them, shall issue their or his Warrant accordingly.

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CLV. It shall be lawful for any Justice to summon any Person to appear before him as a Witness in any Matter in which such Justice shall have Jurisdiction, under the Provisions of this or the special Act, or any Act incorporated therewith, at a Time and Place mentioned in such Summons, and to administer to him an Oath to testify the Truth in such Matter; and if any Person so summoned shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expenses, or if any Person appearing shall refuse to be examined upon Oath or to give Evidence before such Justice, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

*8 Vic. c. 16.
Penalty on Witnesses making default.*

CLVI. It shall be lawful for any Officer or Agent of the Company, and all Persons called by him to his Assistance, to seize and detain any Person who shall have committed any Offence against the Provisions of this or the special Act, or any Act incorporated therewith, and whose Name and Residence shall be unknown to such Officer or Agent, and convey him, with all convenient Despatch, before some Justice, without any Warrant or other Authority than this or the special Act; and such Justice shall proceed with all convenient Despatch to the hearing and determining of the Complaint against such Offender.

Transient Offenders.

CLVII. The Justices before whom any Person shall be convicted of any Offence against this or the special Act, or any Act incorporated therewith, may cause the Conviction to be drawn up according to the Form in the Schedule (G.) to this Act annexed.

Form of Conviction.

CLVIII. No Proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for Want of Form, nor shall the same be removed by Certiorari or otherwise into any of the Superior Courts.

Proceedings not to be quashed for Want of Form.

CLIX. If any Party shall feel aggrieved by any Determination or Adjudication of any Justice with respect to any Penalty or Forfeiture under the Provisions of this or the special Act, or any Act incorporated therewith, such Party may appeal to the General Quarter Sessions for the County or Place in which the Cause of Appeal shall have arisen; but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Determination or Adjudication, nor unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, nor unless the Appellant, forthwith after such Notice, enter into Recognizances, with Two sufficient Sureties, before a Justice, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

Appeal.

Parties allowed to appeal to Quarter Sessions on giving Security.

8 Vic. c. 16.
Court to make
such Order as
they think
reasonable.

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CLX. At the Quarter Sessions for which such Notice shall be given the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to the following Sessions; and upon the Hearing of such Appeal the Court may, if they think fit, mitigate any Penalty or Forfeiture, or they may confirm or quash the Adjudication, and order any Money paid by the Appellant, or levied by Distress upon his Goods, to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable; and they may make such Order concerning the Costs, both of the Adjudication and of the Appeal, as they may think reasonable.

8 *Vic. c. 16.* Court to make such Order as they think reasonable.

SCHEDULES referred to by the foregoing Act. (*a.*)

SCHEDULE (C.)

Form of Mortgage Deed.

“The
Mortgage, Number £
By virtue of [*here name the special Act*], we, “The
Company,” in consideration of the Sum of Pounds
paid to us by *A.B.* of do assign unto the said *A.B.*,
his Executors, Administrators, and Assigns, the said Undertaking
[and (*in case such Loan shall be in anticipation of the Capital autho-
rized to be raised*) all future Calls on Shareholders], and all the Tolls
and Sums of Money arising by virtue of the said Act, and all the
Estate, Right, Title, and Interest of the Company in the same,
to hold unto the said *A.B.*, his Executors, Administrators, and
Assigns, until the said Sum of Pounds, together
with Interest for the same at the Rate of for
every One hundred Pounds by the Year, be satisfied [the Principal
Sum to be repaid at the End of Years from the Date
hereof (*in case any Period be agreed upon for that Purpose*)], [*at
or any Place of Payment other than the
principal Office of the Company*]. Given under our Common Seal, this
Day of in the Year of our
Lord

(u.) It will be observed the Provisions of the Act are incorporated with the Public Baths and Lodging Houses Acts, but the Schedules are not.

SCHEDULE (D.)

Form of Bond.

"The Company."
 Bond, Number £
 By virtue of [*here name the special Act*], we, "The Company," in consideration of the Sum of Pounds
 to us in hand paid by *A.B.* of do bind ourselves
 and our Successors unto the said *A.B.*, his Executors, Administrators,
 and Assigns, in the penal Sum of Pounds.

The Condition of the above Obligation is such, that if the said Company shall pay to the said *A.B.*, his Executors, Administrators, or Assigns, [at (*in case any other Place of Payment than the principal Office of the Company be intended*)], on the Day of which will be in the Year One thousand eight hundred and , the Principal Sum of Pounds, together with Interest for the same at the Rate of Pounds per Centum per Annum, payable half-yearly on the Day of and Day of then the above-written Obligation is to become void, otherwise to remain in full Force. Given under our Common Seal, this Day of One thousand eight hundred and

SCHEDULE (E.)

Form of Transfer of Mortgage or Bond.

I *A.B.* of in consideration of the Sum
 of paid to me by *G.H.* of
 do hereby transfer to the said *G.H.*, his Executors, Administrators,
 and Assigns, a certain Bond [*or Mortgage*] Number
 made by "The Company" to
 bearing Date the Day of for securing the
 Sum of and Interest [*or if such Transfer be by Endorsement, the within Security*], and all my Right,
 Estate, and Interest in and to the Money thereby secured [*and if the Transfer be of a Mortgage, and in and to the Tolls, Money, and Property thereby assigned*]. In witness whereof I have hereunto
 set my Hand and Seal, this Day of One
 thousand eight hundred and

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8 Vic. c. 18.

SCHEDULE (G.)

Form of Conviction.

to wit.

BE it remembered, That on the _____ Day of _____
in the Year of our Lord _____ *A.B.* is convicted
before us, *C.D.*, Two of Her Majesty's Justices of the Peace for
the County of _____ [*here describe the Offence generally,*
and the Time and Place when and where committed,] contrary to the
[*here name the special Act* Given under our Hands and Seals, the
Day and Year first above writte .

C.

D.

APPENDIX.

No. 6.

LANDS CLAUSES CONSOLIDATION ACT.

"*The Lands Clauses Consolidation Act, 1845,*" is incorporated with
the Baths and Wash-houses Amendment Act, by the 4th sec. ante,
page 214, Appendix; and with the Labouring Classes, Lodging
Houses Act, 1851, by sec. 34, ante page 231, Appendix, but the
Commissioners under each Act are restricted from purchasing, or
taking Lands otherwise than by agreement.

The 84th Sec. of the Public Health Act, (incorporated with the Cheltenham Improvement Act, by sec. 26, ante page 41) incorporates the Lands Clauses Consolidation Act "except the Parts and Enactments of that Act with respect to the Purchase and taking of Lands otherwise than by Agreement," (comprising secs. 16 to 68 both inclusive), "and with respect to the Recovery of Forfeitures, Penalties, and Costs," (comprising secs. 136 to 149 both inclusive) "and with respect to Lands acquired by the Promoters of the Undertaking, but which shall not be wanted for the Purposes thereof," (comprising secs. 127 to 135 both inclusive.) The 28th Section of the Cheltenham Improvement Act, ante page 44 enacts that "the Provisions of the Lands Clauses Consolidation Act, 1845, with respect to the "Purchase and taking of Lands otherwise than by Agreement," (part

of the Act previously excepted, viz., sections 16 to 68, both inclusive.) "shall be incorporated with this Act, as well as those Provisions of the said Act already herein incorporated by Reference to Section 84 of "The Public Health Act, 1848:" and the 66th sect. of the Cheltenham Improvement Act, (incorporating section 77 of the Towns Improvement Clauses Act, ante, page 86) incorporates in effect the compulsory Compensation Clauses of the Lands Clauses Consolidation Act.

*Appendix
No. 6.
8 Vic. c. 13.*

The Necessity for setting forth in this Appendix the whole of "The Lands Clauses Consolidation Act, 1845," is therefore obvious.

The Parts not directly incorporated with the Cheltenham Improvement Act, (being only 23 Sections) are noticed.

ANNO OCTAVO VICTORIÆ REGINÆ.

CAP. XVIII.

AN ACT FOR CONSOLIDATING IN ONE ACT CERTAIN PROVISIONS
USUALLY INSERTED IN ACTS AUTHORIZING THE TAKING OF
LANDS FOR UNDERTAKINGS OF A PUBLIC NATURE.

[8th May 1845.]

WHEREAS it is expedient to comprise in One General Act sundry Provisions usually introduced into Acts of Parliament relative to the Acquisition of Lands required for Undertakings or Works of a public Nature, and to the Compensation to be made for the same, and that as well for the Purpose of avoiding the Necessity of repeating such Provisions in each of the several Acts relating to such Undertakings as for ensuring greater Uniformity in the Provisions themselves : May it therefore please Your Majesty that it may be enacted ; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That this Act shall apply to every Undertaking authorized by any Act which shall hereafter be passed, and which shall authorize the Purchase or taking of Lands for such Undertaking, and this Act shall be incorporated with such Act ; and all the Clauses and Provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the Undertaking authorized thereby, so far as the same shall be applicable to such Undertaking, and shall, as well as the Clauses and Provisions of every other Act

*Act to apply to
all Undertakings
authorised by
Acts hereafter to
be passed*

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No. 6. which shall be incorporated with such Act, form Part of such Act, and
8 *Vic. c. 18.* be construed together therewith as forming One Act.

Interpretations
in this Act : And with respect to the Construction of this Act and of Acts to be
incorporated therewith, be it enacted as follows :

"Special Act : " II. The Expression "the special Act," used in this Act, shall be
construed to mean any Act which shall be hereafter passed which shall
authorize the taking of Lands for the Undertaking to which the same
relates, and with which this Act shall be so incorporated as aforesaid ;

"Prescribed : " and the Word "prescribed," used in this Act in reference to any
Matter herein stated, shall be construed to refer to such Matter as the
same shall be prescribed or provided for in the special Act, and the
Sentence in which such Word shall occur shall be construed as if, in-
stead of the Word "prescribed," the Expression "prescribed for that
Purpose in the special Act" had been used ; and the Expression "the

"The Works : " Works" or "the Undertaking" shall mean the Works or Undertaking,
of whatever Nature, which shall by the special Act be authorized to
be executed ; and the Expression "the Promoters of the Undertaking"

"Promoters of
the Under-
taking." shall mean the Parties, whether Company, Undertakers, Commis-
sioners, Trustees, Corporations, or private Persons, by the special Act
empowered to execute such Works or Undertaking.

Interpretations
in this and the
special Act : III. The following Words and Expressions, both in this and the
special Act, shall have the several Meanings hereby assigned to them,
unless there be something either in the Subject or Context repugnant
to such Construction ; (that is to say,)

Number : Words importing the Singular Number only shall include the Plural
Number, and Words importing the Plural Number only shall
include the Singular Number :

Gender : Words importing the Masculine Gender only shall include Females :

"Lands : " The Word "Lands" shall extend to Messuages, Lands, Tenements,
and Hereditaments, of any Tenure :

"Lease : " The Word "Lease" shall include an Agreement for a Lease :

"Month : " The Word "Month" shall mean Calendar Month :

"Superior
Courts : " The Expression "Superior Courts" shall mean Her Majesty's Supe-
rior Courts of Record at *Westminster* or *Dublin*, as the Case may
require :

"Oath : " The Word "Oath" shall include Affirmation in the Case of Quakers,
or other Declaration lawfully substituted for an Oath in the Case
of any other Persons exempted by Law from the Necessity of
taking an Oath :

"County : " The Word "County" shall include any Riding or other like Division
of a County, and shall also include County of a City or County of
a Town :

The Word "Sheriff" shall include Under Sheriff, or other legally competent Deputy; and where any Matter in relation to any Land is required to be done by any Sheriff or by any Clerk of the Peace, the Expression "the Sheriff," or the Expression "the Clerk of the Peace," shall in such Case be construed to mean the Sheriff or the Clerk of the Peace of the County, City, Borough, Liberty, Cinque Port, or Place where such Lands shall be situate; and if the Lands in question, being the Property of one and the same Party, be situate not wholly in one County, City, Borough, Liberty, Cinque Port, or Place, the same Expression shall be construed to mean the Sheriff or Clerk of the Peace of any County, City, Borough, Liberty, Cinque Port, or Place where any Part of such Lands shall be situate :

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8 *Vic. c. 18.*
"The Sheriff :"
"The Clerk of
the Peace :"

The Word "Justices" shall mean Justices of the Peace acting for the County, City, Liberty, Cinque Port, or Place where the Matter requiring the Cognizance of any such Justice shall arise, and who shall not be interested in the Matter; (a.) and where such Matter shall arise in respect of Lands being the Property of one and the same Party, situate not wholly in any one County, City, Borough, Liberty, Cinque Port, or Place, the same shall mean a Justice acting for the County, City, Borough, Liberty, Cinque Port, or Place where any Part of such Lands shall be situate, and who shall not be interested in such Matter; and where any Matter shall be authorized or required to be done by Two Justices, the Expression "Two Justices" shall be understood to mean Two Justices assembled and acting together :

Where under the Provisions of this or the special Act, or any Act incorporated therewith, any Notice shall be required to be given to the Owner of any Lands, or where any Act shall be authorized or required to be done with the Consent of any such Owner, the Word "Owner" shall be understood to mean any Person or Corporation who, under the Provisions of this or the special Act, would be enabled to sell and convey Lands to the Promoters of the Undertaking :

The Expression "the Bank" shall mean the Bank of *England* where the same shall relate to Monies to be paid or deposited in respect of Lands situate in *England*, and shall mean the Bank of *Ireland* where the same shall relate to Monies to be paid or deposited in respect of Lands situate in *Ireland*. (b.)

(a.) It would seem that the enabling clause, section 137 of the Cheltenham Improvement Act, ante, page 175 will apply to Justices acting under the provisions of the Lands Clauses Consolidation Act, as incorporated with the Cheltenham Act, but not otherwise.

(b.) See note to section 3 page 6 of the Cheltenham Improvement Act as to the Interpretations of Words in the incorporated Sections from other Acts.

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No. 6.*

8 Vic. c. 18.
Short Title of
the Act.

Form in which
Portions of this
Act may be in-
corporated with
other Acts.

IV. And be it enacted, That in citing this Act in other Acts of Parliament, and in legal Instruments, it shall be sufficient to use the Expression "The Lands Clauses Consolidation Act, 1845."

V. And whereas it may be convenient in some Cases to incorporate with Acts of Parliament hereafter to be passed some Portion only of the Provisions of this Act: Be it therefore enacted, That, for the Purpose of making any such Incorporation, it shall be sufficient in any such Act to enact that the Clauses of this Act with respect to the Matter so proposed to be incorporated (describing such Matter as it is described in this Act in the Words introductory to the Enactment with respect to such Matter) shall be incorporated with such Act, and thereupon all the Clauses and Provisions of this Act with respect to the Matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form Part of such Act, and such Act shall be construed as if the Substance of such Clauses and Provisions were set forth therein with reference to the Matter to which such Act shall relate.

*Purchase of
Lands by
Agreement.*

Power to pur-
chase Lands by
Agreement.

And with respect to the Purchase of Lands by Agreement, be it enacted as follows:

VI. Subject to the Provisions of this and the special Act, it shall be lawful for the Promoters of the Undertaking to agree with the Owners of any Lands by the special Act authorized to be taken, and which shall be required for the Purposes of such Act, and with all Parties having any Estate or Interest in such Lands, or by this or the special Act enabled to sell and convey the same, for the absolute Purchase, for a Consideration in Money, of any such Lands, or such Parts thereof as they shall think proper, and of all Estates and Interests in such Lands of what Kind soever.

Parties under
Disability en-
abled to sell and
convey.

VII. It shall be lawful for all Parties, being seised, possessed of, or entitled to any such Lands, or any Estate or Interest therein, to sell and convey or release the same to the Promoters of the Undertaking, and to enter into all necessary Agreements for that Purpose; and particularly it shall be lawful for all or any of the following Parties so seised, possessed, or entitled as aforesaid so to sell, convey, or release; (that is to say,) all Corporations, Tenants in Tail or for Life, married Women seised in their own Right or entitled to Dower, Guardians, Committees of Lunatics and Idiots, Trustees or Feoffees in Trust for charitable or other Purposes, Executors and Administrators, and all Parties for the Time being entitled to the Receipts of the Rents and Profits of any such Lands, in possession, or subject to any Estate in Dower, or to any Lease for Life, or for Lives and Years, or for Years, or any less Interest; and the Power so to sell and convey or release as aforesaid may lawfully be exercised by all such Parties, other than married Women entitled to Dower, or Lessees for Life, or for Lives

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8 Vic. c. 18.

and Years, or for Years, or for any less Interest, not only on behalf of themselves, and their respective Heirs, Executors, Administrators, and Successors, but also for and on behalf of every Person entitled in reversion, remainder, or expectancy after them, or in defeasance of the Estates, of such Parties, and as to such married Women, whether they be of full Age or not, as if they were sole and of full Age, and as to such Guardians, on behalf of their Wards, and as to such Committees, on behalf of the Lunatics and Idiots of whom they are the Committees respectively, and that to the same Extent as such Wives, Wards, Lunatics, and Idiots respectively could have exercised the same Power under the Authority of this or the special Act if they had respectively been under no Disability, and as to such Trustees, Executors, and Administrators, on behalf of their Cestuique Trusts, whether Infants, Issue unborn, Lunatics, Females Covert, or other Persons, and that to the same Extent as such Cestuique Trusts respectively could have exercised the same Powers under the Authority of this and the special Act, if they had respectively been under no Disability.

VIII. The Power hereinafter given to enfranchise Copyhold Lands, as well as every other Power required to be exercised by the Lord of any Manor, pursuant to the Provisions of this or the special Act, or any Act incorporated therewith, and the Power to release Lands from any Rent, Charge, or Incumbrance, and to agree for the Apportionment of any such Rent Charge or Incumbrance shall extend to and may lawfully be exercised by every Party herein-before enabled to sell and convey or release Lands to the Promoters of the Undertaking.

*Parties under
Disability to
exercise other
Powers.*

IX. The Purchase Money or Compensation to be paid for any Lands to be purchased or taken from any Party under any Disability or Incapacity, and not having Power to sell or convey such Lands except under the Provisions of this or the special Act, and the Compensation to be paid for any permanent Damage or Injury to any such Lands, shall not, except where the same shall have been determined by the Verdict of a Jury, or by Arbitration, or by the Valuation of a Surveyor appointed by Two Justices under the Provision herein after contained, be less than shall be determined by the Valuation of Two able practical Surveyors, one of whom shall be nominated by the Promoters of the Undertaking, and the other by the other Party, and if such Two Surveyors cannot agree in the Valuation, then by such Third Surveyor as any Two Justices shall upon Application of either Party, after Notice to the other Party, for that Purpose nominate; and each of such Two Surveyors, if they agree, or if not then the Surveyor nominated by the said Justices, shall annex to the Valuation a Declaration in Writing, subscribed by them or him, of the Correctness thereof; and all such Purchase Money or Compensation shall be deposited in the Bank for the Benefit of the Parties interested, in manner herein-after mentioned.

*Amount of Com-
pensation in
case of Parties
under Disability
to be ascertained
by Valuation,
and paid into the
Bank.*

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8 Vic. c. 18.

Where Vendor
absolutely en-
titled, Lands
may be sold on
Chief Rents.

X. It shall be lawful for any Person seized in Fee of or entitled to dispose of absolutely for his own Benefit any Lands authorized to be purchased for the Purposes of the special Act to sell and convey such Lands or any Part thereof unto the Promoters of the Undertaking, in consideration of an annual Rentcharge payable by the Promoters of the Undertaking, but, except as aforesaid, the Consideration to be paid for the Purchase of any such Lands, or for any Damage done thereto, shall be in a gross Sum.

Payment of
Rents to be
charged on Tolls.

XI. The yearly Rents reserved by any such Conveyance shall be charged on the Tolls or Rates, if any, payable under the special Act, and shall be otherwise secured in such Manner as shall be agreed between the Parties, and shall be paid by the Promoters of the Undertaking as such Rents become payable; and if at any Time any such Rents be not paid within Thirty Days after they so become payable, and after Demand thereof in Writing, the Person to whom any such Rent shall be payable may either recover the same from the Promoters of the Undertaking, with Costs of Suit, by Action of Debt in any of the Superior Courts, or it shall be lawful for him to levy the same by Distress of the Goods and Chattels of the Promoters of the Undertaking.

Power to pur-
chase Lands re-
quired for addi-
tional Accom-
modation.

XII. In case the Promoters of the Undertaking shall be empowered by the special Act to purchase Lands for extraordinary Purposes, it shall be lawful for all Parties who under the Provisions herein-before contained would be enabled to sell and convey Lands to sell and convey the Lands so authorized to be purchased for extraordinary Purposes.

Authority to sell
and repurchase
such Lands.

XIII. It shall be lawful for the Promoters of the Undertaking to sell the Lands which they shall have so acquired for extraordinary Purposes, or any Part thereof, in such Manner, and for such Considerations, and to such Persons as the Promoters of the Undertaking may think fit, and again to purchase other Lands for the like Purposes, and afterwards sell the same, and so from Time to Time; but the total Quantity of Land to be held at any One Time by the Promoters of the Undertaking for the Purposes aforesaid shall not exceed the prescribed Quantity.

Restraint on
Purchase from
incapacitated
Persons.

XIV. The Promoters of the Undertaking shall not, by virtue of the Power to purchase Land for extraordinary Purposes, purchase more than the prescribed Quantity from any Party under legal Disability, or who would not be able to sell and convey such Lands except under the Powers of this and the special Act; and if the Promoters of the Undertaking purchase the said Quantity of Land from any Party under such legal Disability, and afterwards sell the whole or any Part of the Land so purchased, it shall not be lawful for any Party being under legal Disability to sell to the Promoters of the Undertaking any other Lands in lieu of the Land so sold or disposed of by them.

XV. Nothing in this or the special Act contained shall enable any Municipal Corporation to sell for the Purposes of the special Act, without the Approbation of the Commissioners of Her Majesty's Treasury of the United Kingdom of *Great Britain and Ireland*, or any Three of them, any Lands which they could not have sold without such Approbation before the passing of the special Act, other than such Lands as the Company are by the Powers of this or the special Act empowered to purchase or take compulsorily.

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8 Vic. c. 18.

Municipal Corporations not to sell without the Approbation of the Treasury.

And with respect to the Purchase and taking of Lands otherwise than by Agreement, be it enacted as follows:

*Purchase of
Lands other-
wise than by
Agreement.*

XVI. Where the Undertaking is intended to be carried into effect by means of a Capital to be subscribed by the Promoters of the Undertaking, the whole of the Capital or estimated Sum for defraying the Expenses of the Undertaking shall be subscribed under Contract binding the Parties thereto, their Heirs, Executors, and Administrators, for the Payment of the several Sums by them respectively subscribed, before it shall be lawful to put in force any of the Powers of this or the special Act, or any Act incorporated therewith, in relation to the compulsory taking of Land for the Purposes of the Undertaking.

Capital to be subscribed before compulsory Powers of Purchase put in force.

XVII. A Certificate under the Hands of Two Justices, certifying that the whole of the prescribed Sum has been subscribed, shall be sufficient Evidence thereof, and on the Application of the Promoters of the Undertaking, and the Production of such Evidence as such Justices think proper and sufficient, such Justices shall grant such Certificate accordingly.

A Certificate of Two Justices to be Evidence that the Capital has been subscribed.

XVIII. When the Promoters of the Undertaking shall require to purchase or take any of the Lands which by this or the special Act, or any Act incorporated therewith, they are authorized to purchase or take, they shall give Notice thereof to all the Parties interested in such Lands, or to the Parties enabled by this Act to sell and convey or release the same, or such of the said Parties as shall, after diligent Inquiry, be known to the Promoters of the Undertaking, and by such Notice shall demand from such Parties the Particulars of their Estate and Interest in such Lands, and of the Claims made by them in respect thereof; and every such Notice shall state the Particulars of the Lands so required, and that the Promoters of the Undertaking are willing to treat for the Purchase thereof, and as to the Compensation to be made to all Parties for the Damage that may be sustained by them by reason of the Execution of the Works.

Notice of Intention to take Lands.

XIX. All Notices required to be served by the Promoters of the Undertaking upon the Parties interested in or entitled to sell any such Lands shall either be served personally on such Parties, or left at their last usual Place of Abode, if any such can after diligent Inquiry be found, and in case any such Parties shall be absent from the United

Service of Notices on Owners and Occupiers of Lands.

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8 *Vic. c. 18.* Kingdom, or cannot be found after diligent Inquiry, shall also be left with the Occupier of such Lands, or, if there be no such Occupier, shall be affixed upon some conspicuous Part of such Lands.

Service of Notice
on a Corporation
Aggregate.

XX. If any such Party be a Corporation Aggregate such Notice shall be left at the principal Office of Business of such Corporation, or, if no such Office can after diligent Inquiry be found, shall be served on some principal Member, if any, of such Corporation, and such Notice shall also be left with the Occupier of such Lands, or, if there be no such Occupier, shall be affixed upon some conspicuous Part of such Lands.

If Parties fail to
treat, or in case
of Dispute,
Question to be
settled as after
mentioned.

XXI. If, for Twenty-one Days after the Service of such Notice, any such Party shall fail to state the Particulars of his Claim in respect of any such Land, or to treat with the Promoters of the Undertaking, in respect thereof, or if such Party and the Promoters of the Undertaking shall not agree as to the Amount of the Compensation to be paid by the Promoters of the Undertaking for the Interest in such Lands belonging to such Party, or which he is by this or the special Act enabled to sell, or for any Damage that may be sustained by him by reason of the Execution of the Works, the Amount of such Compensation shall be settled in the Manner herein-after provided for settling Cases of disputed Compensation.

Disputes as to
Compensation
where the
Amount claimed
does not exceed
£50 to be settled
by Two Justices.

XXII. If no Agreement be come to between the Promoters of the Undertaking and the Owners of or Parties by this Act enabled to sell and convey or release any Lands taken or required for or injuriously affected by the Execution of the Undertaking, or any Interest in such Lands, as to the Value of such Lands or of any Interest therein, or as to the Compensation to be made in respect thereof, and if in any such Case the Compensation claimed shall not exceed Fifty Pounds, the same shall be settled by Two Justices.

Compensation
exceeding £50
to be settled by
Arbitration or
Jury, at the
Option of the
Party claiming
Compensation.

XXIII. If the Compensation claimed or offered in any such Case shall exceed Fifty Pounds, and if the Party claiming Compensation desire to have the same settled by Arbitration, and signify such Desire by Notice in Writing to the Promoters of the Undertaking, before they have issued their Warrant to the Sheriff to summon a Jury in respect of such Lands, under the Provisions herein-after contained, stating in such Notice the Nature of the Interest in respect of which such Party claims Compensation, and the Amount of the Compensation so claimed, the same shall be so settled accordingly; but unless the Party claiming Compensation shall as aforesaid signify his Desire to have the Question of such Compensation settled by Arbitration, or if when the Matter shall have been referred to Arbitration the Arbitrators or their Umpire shall for Three Months have failed to make their or his Award, or if no final Award shall be made, the Question of such Compensation shall be settled by the Verdict of a Jury, as herein-after provided.

XXIV. It shall be lawful for any Justice, upon the Application of either Party with respect to any Question of disputed Compensation by this or the special Act, or any Act incorporated therewith, authorized to be settled by Two Justices, to summon the other Party to appear before Two Justices, at a Time and Place to be named in the Summons; and upon the Appearance of such Parties, or in the Absence of any of them upon Proof of due Service of the Summons, it shall be lawful for such Justice to hear and determine such Question, and for that Purpose to examine such Parties or any of them, and their Witnesses, upon Oath; and the Costs of every such Inquiry shall be in the Discretion of such Justices, and they shall settle the Amount thereof.

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8 Vic. c. 18.
Method of proceeding for settling Disputes as to compensation by Justices.

XXV. When any Question of disputed Compensation by this or the special Act, or any Act incorporated therewith, authorized or required to be settled by Arbitration, shall have arisen, then, unless both Parties shall concur in the Appointment of a single Arbitrator, each Party, on the Request of the other Party, shall nominate and appoint an Arbitrator to whom such Dispute shall be referred; and every Appointment of an Arbitrator shall be made on the Part of the Promoters of the Undertaking under the Hands of the said Promoters or any Two of them, or of their Secretary or Clerk, and on the Part of any other Party under the Hand of such Party, or if such Party be a Corporation Aggregate under the Common Seal of such Corporation; and such Appointment shall be delivered to the Arbitrator, and shall be deemed a Submission to Arbitration on the Part of the Party by whom the same shall be made; and after any such Appointment shall have been made neither Party shall have Power to revoke the same without the Consent of the other, nor shall the Death of either Party operate as a Revocation; and if for the Space of Fourteen Days after any such Dispute shall have arisen, and after a Request in Writing, in which shall be stated the Matter so required to be referred to Arbitration, shall have been served by the one Party on the other Party, to appoint an Arbitrator, such last-mentioned Party fail to appoint such Arbitrator, then upon such Failure the Party making the Request, and having himself appointed an Arbitrator, may appoint such Arbitrator to act on behalf of both Parties, and such Arbitrator may proceed to hear and determine the Matters which shall be in dispute, and in such Case the Award or Determination of such single Arbitrator shall be final.

Appointment of Arbitrator when Questions are to be determined by Arbitration.

XXVI. If, before the Matters so referred shall be determined, any Arbitrator appointed by either Party die, or become incapable, the Party by whom such Arbitrator was appointed may nominate and appoint in Writing some other Person to act in his Place, and if, for the Space of Seven Days after Notice in Writing from the other Party for that Purpose, he fail to do so, the remaining or other Arbitrator may

Vacancy of Arbitrator to be supplied.

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No. 6.
 8 *Vic. c. 18.* proceed *ex parte*; and every Arbitrator so to be substituted as aforesaid shall have the same Powers and Authorities as were vested in the former Arbitrator at the Time of such his Death or Disability as aforesaid.

Appointment of
 Umpire.

XXVII. Where more than One Arbitrator shall have been appointed such Arbitrators shall, before they enter upon the Matters referred to them, nominate and appoint, by Writing under their Hands, an Umpire to decide on any such Matters on which they shall differ, or which shall be referred to him under the Provisions of this or the special Act, and if such Umpire shall die, or become incapable to act, they shall forthwith after such Death or Incapacity appoint another Umpire in his Place, and the Decision of every such Umpire on the Matters so referred to him shall be final.

Board of Trade
 empowered to
 appoint an Umpire on neglect of the Arbitrators, in case of Railway Companies.

XXVIII. If in either of the Cases aforesaid the said Arbitrators shall refuse, or shall, for Seven Days after Request of either Party to such Arbitration, neglect to appoint an Umpire, the Board of Trade, in any Case in which a Railway Company shall be one Party to the Arbitration, and Two Justices in any other Case, shall, on the Application of either Party to such Arbitration, appoint an Umpire, and the Decision of such Umpire on the Matters on which the Arbitrators shall differ, or which shall be referred to him under this or the special Act, shall be final.

In case of Death
 of single Arbitrator the Matter to begin de novo.

XXIX. If, when a single Arbitrator shall have been appointed, such Arbitrator shall die or become incapable to act before he shall have made his Award, the Matters referred to him shall be determined by Arbitration under the Provisions of this or the special Act in the same Manner as if such Arbitrator had not been appointed.

If either Arbitrator refuse to act the other to proceed *ex parte*.

XXX. If, where more than One Arbitrator shall have been appointed, either of the Arbitrators refuse or for Seven Days neglect to act, the other Arbitrator may proceed *ex parte*, and the Decision of such other Arbitrator shall be as effectual as if he had been the single Arbitrator appointed by both Parties.

If Arbitrators fail to make their Award within Twenty-one Days the Matter to go to the Umpire.

XXXI. If, where more than One Arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such Arbitrators shall fail to make their Award within Twenty-one Days after the Day on which the last of such Arbitrators shall have been appointed, or within such extended Time (if any) as shall have been appointed for that Purpose by both such Arbitrators under their Hands, the Matters referred to them shall be determined by the Umpire to be appointed as aforesaid.

Power of Arbitrators to call for Books, &c.

XXXII. The said Arbitrators or their Umpire may call for the Production of any Documents in the Possession or Power of either Party which they or he may think necessary for determining the Question in dispute, and may examine the Parties or their Witnesses on Oath, and administer the Oaths necessary for that Purpose.

XXXIII. Before any Arbitrator or Umpire shall enter into the Consideration of any Matters referred to him, he shall in the Presence of a Justice make and subscribe the following Declaration; that is to say, 'I *A.B.* do solemnly and sincerely declare, That I will faithfully and honestly, and to the best of my Skill and Ability, hear and determine the Matters referred to me under the Provisions of the Act [*naming the special Act*].

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8 Vic. c. 18.
Arbitrator or
Umpire to make
a Declaration.

A.B.

'Made and subscribed in the Presence of

And such Declaration shall be annexed to the Award when made; and if any Arbitrator or Umpire having made such Declaration shall willfully act contrary thereto he shall be guilty of a Misdemeanor.

XXXIV. All the Costs of any such Arbitration, and incident thereto, to be settled by the Arbitrators, shall be borne by the Promoters of the Undertaking, unless the Arbitrators shall award the same or a less Sum than shall have been offered by the Promoters of the Undertaking, in which Case each Party shall bear his own Costs incident to the Arbitration, and the Costs of the Arbitrators shall be borne by the Parties in equal Proportions.

Costs of Arbitration how to be borne.

XXXV. The Arbitrators shall deliver their Award in Writing to the Promoters of the Undertaking, and the said Promoters shall retain the same, and shall forthwith, on Demand, at their own Expense, furnish a Copy thereof to the other Party to the Arbitration, and shall at all Times, on Demand, produce the said Award, and allow the same to be inspected or examined by such Party or any Person appointed by him for that Purpose.

Award to be delivered to the Promoters of the Undertaking.

XXXVI. The Submission to any such Arbitration may be made a Rule of any of the Superior Courts, on the Application of either of the Parties.

Submission may be made a Rule of Court.

XXXVII. No Award made with respect to any Question referred to Arbitration under the Provisions of this or the special Act shall be set aside for Irregularity or Error in Matter of Form.

Award not void through Error in Form.

XXXVIII. Before the Promoters of the Undertaking shall issue their Warrant for summoning a Jury for settling any Case of disputed Compensation they shall give not less than Ten Days Notice to the other Party of their Intention to cause such Jury to be summoned, and in such Notice the Promoters of the Undertaking shall state what Sum of Money they are willing to give for the Interest in such Lands sought to be purchased by them from such Party, and for the Damage to be sustained by him by the Execution of the Works.

Promoters of the Undertaking to give Notice before summoning a Jury.

XXXIX. In every Case in which any such Question of disputed Compensation shall be required to be determined by the Verdict of a Jury the Promoters of the Undertaking shall issue their Warrant to the Sheriff, requiring him to summon a Jury for that Purpose, and such

Warrant for summoning Jury to be addressed to the Sheriff.

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No. 6.
 8 *Vic. c. 18.*

Warrant shall be under the Common Seal of the Promoters of the Undertaking, if they be a Corporation, or if they be not a Corporation under the Hands and Seals of such Promoters or any Two of them; and if such Sheriff be interested in the Matter in dispute such Application shall be made to some Coroner of the County in which the Lands in question, or some Part thereof, shall be situate, and if all the Coroners of such County be so interested such Application may be made to some Person having filled the Office of Sheriff or Coroner in such County, and who shall be then living there, and who shall not be interested in the Matter in dispute, and with respect to the Persons last mentioned Preference shall be given to one who shall have most recently served either of the said Offices; and every Ex-Sheriff, Coroner, or Ex-Coroner shall have Power, if he think fit, to appoint a Deputy or Assessor.

Provisions applicable to Sheriff to apply to Coroner.

XL. Throughout the Enactments contained in this Act relating to the Reference to a Jury, where the Term "Sheriff" is used the Provisions applicable thereto shall be held to apply to every Coroner or other Person lawfully acting in his Place; and in every Case in which any such Warrant shall have been directed to any other Person than the Sheriff such Sheriff shall immediately on receiving Notice of the Delivery of the Warrant deliver over, on Application for that Purpose, to the Person to whom the same shall have been directed, or to any Person appointed by him to receive the same, the Jurors Book and Special Jurors List belonging to the County where the Lands in question shall be situate.

Jury to be summoned.

XLI. Upon the Receipt of such Warrant the Sheriff shall summon a Jury of Twenty-four indifferent Persons, duly qualified to act as Common Jurymen in the Superior Courts, to meet at a convenient Time and Place to be appointed by him for that Purpose, such Time not being less than Fourteen nor more than Twenty-one Days after the Receipt of such Warrant, and such Place not being more than Eight Miles distant from the Lands in question, unless by Consent of the Parties interested, and he shall forthwith give Notice to the Promoters of the Works of the Time and Place so appointed by him.

Jury to be impanelled.

XLII. Out of the Jurors appearing upon such Summons a Jury of Twelve Persons shall be drawn by the Sheriff, in such Manner as Juries for Trials of Issues joined in the Superior Courts are by Law required to be drawn, and if a sufficient Number of Jury-men do not appear in obedience to such Summons the Sheriff shall return other indifferent Men, duly qualified as aforesaid, of the Bystanders, or others that can speedily be procured, to make up the Jury to the Number aforesaid; and all Parties concerned may have their lawful Challenges against any of the Jurymen, but no such Party shall challenge the Array.

XLIII. The Sheriff shall preside on the said Inquiry, and the Party claiming Compensation shall be deemed the Plaintiff, and shall have all such Rights and Privileges as the Plaintiff is entitled to in the Trial of Actions at Law ; and, if either Party so request in Writing, the Sheriff shall summon before him any Person considered necessary to be examined as a Witness touching the Matters in question, and on the like Request the Sheriff shall order the Jury, or any Six or more of them, to view the Place or Matter in controversy, in like Manner as Views may be had in the Trial of Actions in the Superior Courts.

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8 Vic. c. 18.
Sheriff to pre-
side ; Witnesses
to be summoned.*

XLIV. If the Sheriff make default in any of the Matters herein-before required to be done by him in relation to any such Trial or Inquiry he shall forfeit Fifty Pounds for every such Offence, and such Penalty shall be recoverable by the Promoters of the Undertaking by Action in any of the Superior Courts ; and if any Person summoned and returned upon any Jury under this or the special Act, whether common or special, do not appear, or if appearing he refuse to make Oath, or in any other Manner unlawfully neglect his Duty, he shall, unless he show reasonable Excuse to the Satisfaction of the Sheriff, forfeit a Sum not exceeding Ten Pounds ; and every such Penalty payable by a Sheriff or Juryman shall be applied in satisfaction of the Costs of the Inquiry, so far as the same will extend ; and in addition to the Penalty hereby imposed every such Juryman shall be subject to the same Regulations, Pains, and Penalties as if such Jury had been returned for the Trial of an Issue joined in any of the Superior Courts.

*Penalty on
Sheriff and Jury
for Default.*

XLV. If any Person duly summoned to give Evidence upon any such Inquiry, and to whom a Tender of his reasonable Expenses shall have been made, fail to appear at the Time and Place specified in the Summons, without sufficient Cause, or if any Person, whether summoned or not, who shall appear as a Witness, refuse to be examined on Oath touching the Subject Matter in question, every Person so offending shall forfeit to the Party aggrieved a Sum not exceeding Ten Pounds.

*Penalty on Wit-
nesses making
default.*

XLVI. Not less than Ten Days Notice of the Time and Place of the Inquiry shall be given in Writing by the Promoters of the Undertaking to the other Party.

*Notice of In-
quiry.*

XLVII. If the Party claiming Compensation shall not appear at the Time appointed for the Inquiry such Inquiry shall not be further proceeded in, but the Compensation to be paid shall be such as shall be ascertained by a Surveyor appointed by Two Justices in manner herein-after provided.

*If the Party
make default the
Inquiry not to
proceed.*

XLVIII. Before the Jury proceed to inquire of and assess the Compensation or Damage in respect of which their Verdict is to be given they shall make Oath that they will truly and faithfully inquire of and

Jury to be sworn.

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No. 6.
 8 *Vic. c. 18.* assess such Compensation or Damage, and the Sheriff shall administer such Oaths, as well as the Oaths of all Persons called upon to give Evidence.

Sum to be paid
 for Purchase of
 Lands and for
 Damage, to be
 assessed sepa-
 rately.

XLIX. Where such Inquiry shall relate to the Value of Lands to be purchased, and also to Compensation claimed for Injury done or to be done to the Lands held therewith, the Jury shall deliver their Verdict separately for the Sum of Money to be paid for the Purchase of the Lands required for the Works, or of any Interest therein belonging to the Party with whom the Question of disputed Compensation shall have arisen, or which, under the Provisions herein contained, he is enabled to sell or convey, and for the Sum of Money to be paid by way of Compensation for the Damage, if any, to be sustained by the Owner of the Lands by reason of the severing of the Lands taken from the other Lands of such Owner, or otherwise injuriously affecting such Lands by the Exercise of the Powers of this or the special Act, or any Act incorporated therewith.

Verdict and
 Judgement to be
 recorded.

L. The Sheriff before whom such Inquiry shall be held shall give Judgment for the Purchase Money or Compensation assessed by such Jury, and the Verdict and Judgment shall be signed by the Sheriff, and being so signed shall be kept by the Clerk of the Peace among the Records of the General or Quarter Sessions of the County in which the Lands or any Part thereof shall be situate in respect of which such Purchase Money or Compensation shall have been awarded; and such Verdicts and Judgments shall be deemed Records, and the same or true Copies thereof shall be good Evidence in all Courts and elsewhere, and all Persons may inspect the said Verdicts and Judgments, and may have Copies thereof or Extracts therefrom, on paying for each Inspection thereof One Shilling, and for every One hundred Words copied or extracted therefrom Sixpence, which Copies or Extracts the Clerk of the Peace is hereby required to make out, and to sign and certify the same to be true Copies.

Costs of the In-
 quiry how to be
 borne.

LI. On every such Inquiry before a Jury where the Verdict of the Jury shall be given for a greater Sum than the Sum previously offered by the Promoters of the Undertaking, all the Costs of such Inquiry shall be borne by the Promoters of the Undertaking; but if the Verdict of the Jury be given for the same or a less Sum than the Sum previously offered by the Promoters of the Undertaking, or if the Owner of the Lands shall have failed to appear at the Time and Place appointed for the Inquiry, having received due Notice thereof, one Half of the Costs of summoning, impannelling, and returning the Jury, and of taking the Inquiry, and recording the Verdict and Judgment thereon, in case such Verdict shall be taken, shall be defrayed by the Owner of the Lands, and the other Half by the Promoters of the Undertaking, and each Party shall bear his own Costs, other than as aforesaid, incident to such Inquiry.

LII. The Costs of any such Inquiry shall, in case of Difference, be settled by One of the Masters of the Court of Queen's Bench or England or Ireland, according as the Lands are situate, on the Application of either Party, and such Costs shall include all reasonable Costs, Charges, and Expenses incurred in summoning, impannelling, and returning the Jury, taking the Inquiry, the Attendance of Witnesses, the Employment of Counsel and Attornies, recording the Verdict and Judgment thereon, and otherwise incident to such Inquiry.

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8 Vic. c. 18.
Particulars of
the Costs.*

LIII. If any such Costs shall be payable by the Promoters of the Undertaking, and if within Seven Days after Demand such Costs be not paid to the Party entitled to receive the same, they shall be recoverable by Distress, and on Application to any Justice he shall issue his Warrant accordingly; and if any such Costs shall be payable by the Owner of the Lands or of any Interest therein, the same may be deducted and retained by the Promoters of the Undertaking, out of any Money awarded by the Jury to such Owner, or determined by the Valuation of a Surveyor under the Provision herein-after contained; and the Payment or Deposit of the Remainder, if any, of such Money, shall be deemed Payment and Satisfaction of the whole thereof, or if such Costs shall exceed the Amount of the Money so awarded or determined, the Excess shall be recoverable by Distress, and on Application to any Justice he shall issue his Warrant accordingly.

*Payment of
Costs.*

LIV. If either Party desire any such Question of disputed Compensation as aforesaid to be tried before a Special Jury, such Question shall be so tried, provided that Notice of such Desire, if coming from the other Party, be given to the Promoters of the Undertaking before they have issued their Warrant to the Sheriff; and for that Purpose the Promoters of the Undertaking shall by their Warrant to the Sheriff require him to nominate a Special Jury for such Trial; and thereupon the Sheriff shall, as soon as conveniently may be after the Receipt by him of such Warrant, summon both the Parties to appear before him, by themselves or their Attornies, at some convenient Time and Place appointed by him, for the Purpose of nominating a Special Jury (not being less than Five nor more than Eight Days from the Service of such Summons); and at the Place and Time so appointed the Sheriff shall proceed to nominate and strike a Special Jury, in the Manner in which such Juries shall be required by the Laws for the Time being in force to be nominated or struck by the proper Officers of the Superior Courts, and the Sheriff shall appoint a Day, not later than the Eighth Day after striking of such Jury, for the Parties or their Agents to appear before him to reduce the Number of such Jury, and thereof shall give Four Days Notice to the Parties; and on the Day so appointed the Sheriff shall proceed to reduce the said Special Jury to the Number of Twenty, in the Manner used and accustomed by the proper Officers of the Superior Courts.

*Special Jury to
be summoned
at the Request
of either Party.*

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8 *Vic. c. 18.*
Deficiency of
Special Jurymen.

LV. The Special Jury on such Inquiry shall consist of Twelve of the said Twenty who shall first appear on the Names being called over, the Parties having their lawful Challenges against any of the said Jurymen ; and if a full Jury do not appear, or if after such Challenges a full Jury do not remain, then, upon the Application of either Party, the Sheriff shall add to the List of such Jury the Names of any other disinterested Persons qualified to act as Special or Common Jurymen, who shall not have been previously struck off the aforesaid List, and who may then be attending the Court or can speedily be procured, so as to complete such Jury, all Parties having their lawful Challenges against such Persons ; and the Sheriff shall proceed to the Trial and Adjudication of the Matters in question by such Jury, and such Trial shall be attended in all respects with the like Incidents and Consequences, and the like Penalties shall be applicable, as herein-before provided in the Case of a Trial by Common Jury.

Other Inquiries
before same
Special Jury by
Consent.

LVI. Any other Inquiry than that for the Trial of which such Special Jury may have been struck and reduced as aforesaid may be tried by such Jury, provided the Parties thereto respectively shall give their Consent to such Trial.

Jurymen not to
attend more
than once a
Year.

LVII. No Jurymen shall, without his Consent, be summoned or required to attend any such Proceeding as aforesaid more than once in any Year.

Compensation to
absent Parties to
be determined by
a Surveyor ap-
pointed by Two
Justices.

LVIII. The Purchase Money or Compensation to be paid for any Lands to be purchased or taken by the Promoters of the Undertaking from any Party who, by reason of Absence from the Kingdom, is prevented from treating, or who cannot after diligent Inquiry be found, or who shall not appear at the Time appointed for the Inquiry before the Jury as herein-before provided for, after due Notice thereof, and the Compensation to be paid for any permanent Injury to such Lands, shall be such as shall be determined by the Valuation of such able practical Surveyor as Two Justices shall nominate for that Purpose as herein-after mentioned.

Two Justices to
nominate a
Surveyor.

LIX. Upon Application by the Promoters of the Undertaking to Two Justices, and upon such Proof as shall be satisfactory to them that any such Party is, by reason of Absence from the Kingdom, prevented from treating, or cannot after diligent Inquiry be found, or that any such Party failed to appear on such Inquiry before a Jury as aforesaid, after due Notice to him for that Purpose, such Justices shall, by Writing under their Hands, nominate an able practical Surveyor for determining such Compensation as aforesaid, and such Surveyor shall determine the same accordingly, and shall annex to his Valuation a Declaration in Writing subscribed by him of the Correctness thereof.

Declaration to
be made by the
Surveyor.

LX. Before such Surveyor shall enter upon the Duty of making such Valuation as aforesaid he shall, in the Presence of such Justices or One

of them, make and subscribe the Declaration following at the Foot of such Nomination; (that is to say,)

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‘ I *A.B.* do solemnly and sincerely declare, That I will faithfully, impartially, and honestly, according to the best of my Skill and Ability, execute the Duty of making the Valuation hereby referred to me.

A.B.

‘ Made and subscribed in the Presence of

’

And if any Surveyor shall corruptly make such Declaration, or having made such Declaration shall wilfully act contrary thereto, he shall be guilty of a Misdemeanor.

LXI. The said Nomination and Declaration shall be annexed to the Valuation to be made by such Surveyor, and shall be preserved together therewith by the Promoters of the Undertaking, and they shall at all Times produce the said Valuation and other Documents, on Demand, to the Owner of the Lands comprised in such Valuation, and to all other Parties interested therein.

*Valuation, &c.
to be produced
to the Owner
of the Lands,
on Demand.*

LXII. All the Expenses of and incident to every such Valuation shall be borne by the Promoters of the Undertaking.

*Expenses to be
borne by Pro-
moters.*

LXIII. In estimating the Purchase Money or Compensation to be paid by the Promoters of the Undertaking, in any of the Cases aforesaid, regard shall be had by the Justices, Arbitrators, or Surveyors, as the Case may be, not only to the Value of the Land to be purchased or taken by the Promoters of the Undertaking, but also to the Damage, if any, to be sustained by the Owner of the Lands by reason of the severing of the Lands taken from the other Lands of such Owner, or otherwise injuriously affecting such other Lands by the Exercise of the Powers of this or the special Act, or any Act incorporated therewith.

*Purchase Money
and Compensation,
how to be
estimated.*

LXIV. When the Compensation payable in respect of any Lands, or any Interest therein, shall have been ascertained by the Valuation of a Surveyor, and deposited in the Bank under the Provisions herein contained, by reason that the Owner or Party entitled to convey such Lands, or such Interest therein as aforesaid, could not be found, or was absent from the Kingdom, if such Owner or Party shall be dissatisfied with such Valuation it shall be lawful for him, before he shall have applied to the Court of Chancery for Payment or Investment of the Monies so deposited under the Provisions herein contained, by Notice in Writing to the Promoters of the Undertaking, to require the Question of such Compensation to be submitted to Arbitration, and thereupon the same shall be so submitted accordingly, in the same Manner as in other Cases of disputed Compensation herein-before authorized or required to be submitted to Arbitration.

Where Compensation to absent Party has been determined by a Surveyor, the Party may have the same submitted to Arbitration.

LXV. The Question to be submitted to the Arbitrators in the Case last aforesaid shall be, whether the said Sum so deposited as aforesaid

Question to be submitted to the Arbitrators.

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If further Sum
awarded, Pro-
motors to pay
or deposit same
within 14 Days.

Costs of the
Arbitration.

To be settled by
Arbitration or
Jury, at the Op-
tion of the Party
claiming Com-
pensation.

by the Promoters of the Undertaking was a sufficient Sum, or whether any and what further Sum ought to be paid or deposited by them.

LXVI. If the Arbitrators shall award that a further Sum ought to be paid or deposited by the Promoters of the Undertaking, they shall pay or deposit, as the Case may require, such further Sum within Fourteen Days after the making of such Award, or in default thereof the same may be enforced by Attachment, or recovered, with Costs, by Action or Suit in any of the Superior Courts.

LXVII. If the Arbitrators shall determine that the Sum so deposited was sufficient, the Costs of and incident to such Arbitration, to be determined by the Arbitrators, shall be in the Discretion of the Arbitrators, but if the Arbitrators shall determine that a further Sum ought to be paid or deposited by the Promoters of the Undertaking, all the Costs of and incident to the Arbitration shall be borne by the Promoters of the Undertaking.

LXVIII. If any Party shall be entitled to any Compensation in respect of any Lands, or of any Interest therein, which shall have been taken for or injuriously affected by the Execution of the Works, and for which the Promoters of the Undertaking shall not have made Satisfaction under the Provisions of this or the special Act, or any Act incorporated therewith, and if the Compensation claimed in such Case shall exceed the Sum of Fifty Pounds, such Party may have the same settled either by Arbitration or by the Verdict of a Jury, as he shall think fit; and if such Party desire to have the same settled by Arbitration, it shall be lawful for him to give Notice in Writing to the Promoters of the Undertaking of such his Desire, stating in such Notice the Nature of the Interest in such Lands in respect of which he claims Compensation, and the Amount of the Compensation so claimed therein; and unless the Promoters of the Undertaking be willing to pay the Amount of Compensation so claimed, and shall enter into a written Agreement for that Purpose within Twenty-one Days after the Receipt of any such Notice from any Party so entitled, the same shall be settled by Arbitration in the Manner herein provided; or if the Party so entitled as aforesaid desire to have such Question of Compensation settled by Jury, it shall be lawful for him to give Notice in Writing of such his Desire to the Promoters of the Undertaking, stating such Particulars as aforesaid, and unless the Promoters of the Undertaking be willing to pay the Amount of Compensation so claimed, and enter into a written Agreement for that Purpose, they shall, within Twenty-one Days after the Receipt of such Notice, issue their Warrant to the Sheriff to summon a Jury for settling the same in the Manner herein provided, and in default thereof they shall be liable to pay to the Party so entitled as aforesaid the Amount of Compensation so claimed, and the same may be recovered by him, with Costs, by Action in any of the Superior Courts.

And with respect to the Purchase Money or Compensation coming to Parties having limited Interests, or prevented from treating, or not making Title, be it enacted as follows :

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*Application
of Compensation.*

LXIX. If the Purchase Money or Compensation which shall be payable in respect of any Lands, or any Interest therein, purchased or taken by the Promoters of the Undertaking from any Corporation, Tenant for Life or in Tail, married Woman seised in her own Right or entitled to Dower, Guardian, Committee of Lunatic or Idiot, Trustee, Executor, or Administrator, or Person having a partial or qualified Interest only in such Lands, and not entitled to sell or convey the same except under the Provisions of this or the special Act, or the Compensation to be paid for any permanent Damage to any such Lands, amount to or exceed the Sum of Two hundred Pounds, the same shall be paid into the Bank, in the Name and with the Privy of the Accountant General of the Court of Chancery in *England* if the same relate to Lands in *England* or *Wales*, or the Accountant General of the Court of Exchequer in *Ireland* if the same relate to Lands in *Ireland*, to be placed to the Account there of such Accountant General *ex parte* the Promoters of the Undertaking (describing them by their proper Name), in the Matter of the special Act (citing it), pursuant to the Method prescribed by any Act for the Time being in force for regulating Monies paid into the said Courts ; and such Monies shall remain so deposited until the same be applied to some One or more of the following Purposes ; (that is to say,)

Purchase Money payable to Parties under Disability amounting to £200 to be deposited in the Bank.

In the Purchase or Redemption of the Land Tax, or the Discharge of any Debt or Incumbrance affecting the Land in respect of which such Money shall have been paid, or affecting other Lands settled therewith to the same or the like Uses, Trusts, or Purposes ; or

Application of Monies deposited

In the Purchase of other Lands, to be conveyed, limited, and settled upon the like Uses, Trusts, and Purposes, and in the same Manner, as the Lands in respect of which such Money shall have been paid stood settled ; or

If such Money shall be paid in respect of any Buildings taken under the Authority of this or the special Act, or injured by the Proximity of the Works, in removing or replacing such Buildings, or substituting others in their Stead, in such Manner as the Court of Chancery shall direct ; or

In Payment to any Party becoming absolutely entitled to such Money.

LXX. Such Money may be so applied as aforesaid upon an Order of the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, made on the Petition of the Party who would have been entitled to the Rents and Profits of the Lands in respect of which such

Order for Application and Investment meanwhile.

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Money shall have been deposited ; and until the Money can be so applied it may, upon the like Order, be invested by the said Accountant General in the Purchase of Three *per Centum* Consolidated or Three *per Centum* Reduced Bank Annuities, or in Government or Real Securities, and the Interest, Dividends, and annual Proceeds thereof paid to the Party who would for the Time being have been entitled to the Rents and Profits of the Lands.

Sums from £20 to £200 to be deposited or paid to Trustees.

LXXI. If the Purchase Money or Compensation shall not amount to the Sum of Two hundred Pounds, and shall exceed the Sum of Twenty Pounds, the same shall either be paid into the Bank, and applied in the Manner herein-before directed with respect to Sums amounting to or exceeding Two hundred Pounds, or the same may lawfully be paid to Two Trustees, to be nominated by the Parties entitled to the Rents or Profits of the Lands in respect whereof the same shall be payable, such Nomination to be signified by Writing under the Hands of the Party so entitled ; and in case of the Coverture, Infancy, Lunacy, or other Incapacity of the Parties entitled to such Monies, such Nomination may lawfully be made by their respective Husbands, Guardians, Committees, or Trustees ; but such last-mentioned Application of the Monies shall not be made unless the Promoters of the Undertaking approve thereof and of the Trustees named for the Purpose ; and the Money so paid to such Trustees, and the Produce arising therefrom, shall be by such Trustees applied in the Manner herein-before directed with respect to Money paid into the Bank, but it shall not be necessary to obtain any Order of the Court for that Purpose.

Sums not exceeding £20 to be paid to Parties.

LXXII. If such Money shall not exceed the Sum of Twenty Pounds, the same shall be paid to the Parties entitled to the Rents and Profits of the Lands in respect whereof the same shall be payable, for their own Use and Benefit, or in case of the Coverture, Infancy, Idiocy, Lunacy, or other Incapacity of any such Parties, then such Money shall be paid for their Use to the respective Husbands, Guardians, Committees, or Trustees of such Persons.

All Sums payable under Contract with Persons not absolutely entitled to be paid into Bank.

LXXIII. All Sums of Money exceeding Twenty Pounds which may be payable by the Promoters of the Undertaking in respect of the taking, using, or interfering with any Lands, under a Contract or Agreement with any Person who shall not be entitled to dispose of such Lands or of the Interest therein contracted to be sold by him absolutely for his own Benefit, shall be paid into the Bank or to Trustees in manner aforesaid ; and it shall not be lawful for any contracting Party not entitled as aforesaid to retain to his own Use any Portion of the Sums so agreed or contracted to be paid for or in respect of the taking, using, or interfering with any such Lands, or in lieu of Bridges, Tunnels, or other Accommodation Works, or for

assenting to or not opposing the passing of the Bill authorizing the taking of such Lands, but all such Monies shall be deemed to have been contracted to be paid for and on account of the several Parties interested in such Lands as well, in possession as in remainder, reversion, or expectancy: Provided always, that it shall be in the Discretion of the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, or the said Trustees, as the Case may be, to allot to any Tenant for Life, or for any other partial or qualified Estate, for his own Use, a Portion of the Sum so paid into the Bank, or to such Trustees as aforesaid, as Compensation for any Injury, Inconvenience, or Annoyance which he may be considered to sustain, independently of the actual Value of the Lands to be taken, and of the Damage occasioned to the Lands held therewith, by reason of the taking of such Lands and the making of the Works.

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LXXIV. Where any Purchase Money or Compensation paid into the Bank under the Provisions of this or the special Act shall have been paid in respect of any Lease for a Life or Lives or Years, or for a Life or Lives and Years, or any Estate in Lands less than the whole Fee Simple thereof, or of any Reversion dependent on any such Lease or Estate, it shall be lawful for the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, on the Petition of any Party interested in such Money, to order that the same shall be laid out, invested, accumulated, and paid in such Manner as the said Court may consider will give to the Parties interested in such Money the same Benefit therefrom as they might lawfully have had from the Lease, Estate, or Reversion in respect of which such Money shall have been paid, or as near thereto as may be.

Court of Chancery may direct Application of Money in respect of Leases or Reversions as they may think just.

LXXV. Upon Deposit in the Bank in manner herein-before provided of the Purchase Money or Compensation agreed or awarded to be paid in respect of any Lands purchased or taken by the Promoters of the Undertaking under the Provisions of this or the special Act, or any Act incorporated therewith, the Owner of such Lands, including in such Term all Parties by this Act enabled to sell or convey Lands, shall, when required so to do by the Promoters of the Undertaking, duly convey such Lands to the Promoters of the Undertaking, or as they shall direct; and in default thereof, or if he fail to adduce a good Title to such Lands to their Satisfaction, it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll under their Common Seal if they be a Corporation, or if they be not a Corporation under the Hands and Seals of the Promoters or any Two of them, containing a Description of the Lands in respect of which such Default shall be made, and reciting the Purchase or taking thereof by the Promoters of the Undertaking, and the Names of the Parties from whom the same were purchased or taken, and the Deposit made

Upon Deposit being made, the Owners of the Lands to convey, or in default the Lands to vest in the Promoters of the Undertaking, upon a Deed Poll being executed,

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No. 6. in respect thereof, and declaring the Fact of such Default having been
 8 *Viv. c. 18.* made; and such Deed Poll shall be stamped with the Stamp Duty which would have been payable upon a Conveyance to the Promoters of the Undertaking of the Lands described therein; and thereupon all the Estate and Interest in such Lands of or capable of being sold and conveyed by the Party between whom and the Promoters of the Undertaking such Agreement shall have been come to, or as between whom and the Promoters of the Undertaking such Purchase Money or Compensation shall have been determined by a Jury, or by Arbitrators, or by a Surveyor appointed by Two Justices, as herein provided, and shall have been deposited as aforesaid, shall vest absolutely in the Promoters of the Undertaking, and as against such Parties, and all Parties on behalf of whom they are herein-before enabled to sell and convey, the Promoters of the Undertaking shall be entitled to immediate Possession of such Lands.

Where Parties refuse to convey, or do not show Title, or cannot be found, the Purchase Money to be deposited.

LXXXVI. If the Owner of any such Lands purchased or taken by the Promoters of the Undertaking, or of any Interest therein, on Tender of the Purchase Money or Compensation either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to make out a Title to such Lands, or to the Interest therein claimed by him, to the Satisfaction of the Promoters of the Undertaking, or if he refuse to convey or release such Lands as directed by the Promoters of the Undertaking, or if any such Owner be absent from the Kingdom, or cannot after diligent Inquiry be found, or fail to appear on the Inquiry before a Jury, as herein provided for, it shall be lawful for the Promoters of the Undertaking to deposit the Purchase Money or Compensation payable in respect of such Lands, or any Interest therein, in the Bank, in the Name and with the Privy of the Accountant General of the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, to be placed, except in the Cases herein otherwise provided for, to his Account there, to the Credit of the Parties interested in such Lands (describing them so far as the Promoters of the Undertaking can do), subject to the Control and Disposition of the said Court.

Upon Deposit being made a Receipt to be given and the Lands to vest upon a Deed Poll being executed.

LXXXVII. Upon any such Deposit of Money as last aforesaid being made the Cashier of the Bank shall give to the Promoters of the Undertaking, or to the Party paying in such Money by their Direction, a Receipt for such Money, specifying therein for what and for whose Use (described as aforesaid) the same shall have been received, and in respect of what Purchase the same shall have been paid in; and it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll, under their Common Seal if they be a Corporation, or if they be not a Corporation under the Hands and Seals of the said Promoters or any Two of them, containing a Description of the

Lands in respect whereof such Deposit shall have been made, and declaring the Circumstances under which and the Names of the Parties 8 *Appendix No. 6. Vic. c. 18.* to whose Credit such Deposit shall have been made, and such Deed Poll shall be stamped with the Stamp Duty which would have been payable upon a Conveyance to the Promoters of the Undertaking of the Lands described therein; and thereupon all the Estate and Interest in such Lands of the Parties for whose Use and in respect whereof such Purchase Money or Compensation shall have been deposited shall vest absolutely in the Promoters of the Undertaking, and as against such Parties they shall be entitled to immediate Possession of such Lands.

LXXVIII. Upon the Application by Petition of any Party making claim to the Money so deposited as last aforesaid, or any Part thereof, or to the Lands in respect whereof the same shall have been so deposited, or any Part of such Lands, or any Interest in the same, the said Court of Chancery in *England* or the Court of Exchequer in *Ireland* may, in a summary Way, as to such Court shall seem fit, order such Money to be laid out or invested in the Public Funds, or may order Distribution thereof, or Payment of the Dividends thereof, according to the respective Estates, Titles, or Interests of the Parties making claim to such Money or Lands, or any Part thereof, and may make such other Order in the Premises as to such Court shall seem fit. *Application of Monies so deposited.*

LXXIX. If any Question arise respecting the Title to the Lands in respect whereof such Monies shall have been so paid or deposited as aforesaid, the Parties respectively in possession of such Lands, as being the Owners thereof, or in receipt of the Rents of such Lands, as being entitled thereto at the Time of such Lands being purchased or taken, shall be deemed to have been lawfully entitled to such Lands, until the contrary be shown to the Satisfaction of the Court; and unless the contrary be shown as aforesaid, the Parties so in possession, and all Parties claiming under them, or consistently with their Possession, shall be deemed entitled to the Money so deposited, and to the Dividends or Interest of the Annuities or Securities purchased therewith, and the same shall be paid and applied accordingly. *Party in possession to be deemed the Owner.*

LXXX. In all Cases of Monies deposited in the Bank under the Provisions of this or the special Act, or an Act incorporated therewith, except where such Monies shall have been so deposited by reason of the wilful Refusal of any Party entitled thereto to receive the same, or to convey or release the Lands in respect whereof the same shall be payable, or by reason of the wilful Neglect of any Party to make out a good Title to the Land required, it shall be lawful for the Court of Chancery in *England* or the Court of Exchequer in *Ireland* to order the Costs of the following Matters, including therein all reasonable *Costs in Cases of Money deposited.*

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8 *Vic. c. 18.* Charges and Expenses incident thereto, to be paid by the Promoters of the Undertaking ; (that is to say,) the Costs of the Purchase or taking of the Lands, or which shall have been incurred in consequence thereof, other than such Costs as are herein otherwise provided for, and the Costs of the Investment of such Monies in Government or Real Securities, and of the Reinvestment thereof in the Purchase of other Lands, and also the Costs of obtaining the proper Orders for any of the Purposes aforesaid, and of the Orders for the Payment of the Dividends and Interest of the Securities upon which such Monies shall be invested, and for the Payment out of Court of the Principal of such Monies, or of the Securities whereon the same shall be invested, and of all Proceedings relating thereto, except such as are occasioned by Litigation between adverse Claimants : Provided always, that the Costs of One Application only for Reinvestment in Land shall be allowed, unless it shall appear to the Court of Chancery in *England* or the Court of Exchequer in *Ireland* that it is for the Benefit of the Parties interested in the said Monies that the same should be invested in the Purchase of Lands in different Sums and at different Times, in which Case it shall be lawful for the Court, if it think fit, to order the Costs of any such Investments to be paid by the Promoters of the Undertaking.

Conveyances. And with respect to the Conveyances of Lands, be it enacted as follows :

Form of conveyances. LXXXI. Conveyances of Lands to be purchased under the Provisions of this or the special Act, or any Act incorporated therewith, may be according to the Forms in the Schedules (A.) and (B.) respectively to this Act annexed, or as near thereto as the Circumstances of the Case will admit, or by Deed in any other Form which the Promoters of the Undertaking may think fit ; and all Conveyances made according to the Forms in the said Schedules, or as near thereto as the Circumstances of the Case will admit, shall be effectual to vest the Lands thereby conveyed in the Promoters of the Undertaking, and shall operate to merge all Terms of Years attendant by express Declaration or by Construction of Law on the Estate or Interest so thereby conveyed, and to bar and to destroy all such Estates Tail, and all other Estates, Rights, Titles, Remainders, Reversions, Limitations, Trusts, and Interests whatsoever of and in the Lands comprised in such Conveyances which shall have been purchased or compensated for by the Consideration therein mentioned ; but although Terms of Years be thereby merged they shall in Equity afford the same Protection as if they had been kept on foot and assigned to a Trustee for the Promoters of the Undertaking, to attend the Reversion and Inheritance.

Costs of Conveyances. LXXXII. The Costs of all such Conveyances shall be borne by the Promoters of the Undertaking, and such Costs shall include all Charges

and Expenses incurred, on the Part as well of the Seller as of the Purchaser, of all Conveyances and Assurances of any such Lands, and of any outstanding Terms or Interests therein, and of deducing, evidencing, and verifying the Title to such Lands, Terms, or Interests, and of making out and furnishing such Abstracts and attested Copies as the Promoters of the Undertaking may require, and all other reasonable Expenses incident to the Investigation, Deduction, and Verification of such Title.

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LXXXIII. If the Promoters of the Undertaking and the Party entitled to any such Costs shall not agree as to the Amount thereof, such Costs shall be taxed by One of the Taxing Masters of the Court of Chancery, or by a Master in Chancery in *Ireland*, upon an Order of the same Court, to be obtained upon Petition in a summary Way by either of the Parties; and the Promoters of the Undertaking shall pay what the said Master shall certify to be due in respect of such Costs to the Party entitled thereto, or in default thereof the same may be recovered in the same Way as any other Costs payable under an Order of the said Court, or the same may be recovered by Distress in the Manner herein-before provided in other Cases of Costs; and the Expense of taxing such Costs shall be borne by the Promoters of the Undertaking, unless upon such Taxation One Sixth Part of the Amount of such Costs shall be disallowed, in which Case the Costs of such Taxation shall be borne by the Party whose Costs shall be so taxed, and the Amount thereof shall be ascertained by the said Master, and deducted by him accordingly in his Certificate of such Taxation.

*Taxation of
Costs of Convey-
ances.*

And with respect to the Entry upon Lands by the Promoters of the Undertaking, be it enacted as follows:

*Entry on
Lands.*

LXXXIV. The Promoters of the Undertaking shall not, except by Consent of the Owners and Occupiers, enter upon any Lands which shall be required to be purchased or permanently used for the Purposes and under the Powers of this or the special Act, until they shall either have paid to every Party having any Interest in such Lands, or deposited in the Bank, in the Manner herein mentioned, the Purchase Money or Compensation agreed or awarded to be paid to such Parties respectively for their respective Interests therein: Provided always, that for the Purpose merely of surveying and taking Levels of such Lands, and of probing or boring to ascertain the Nature of the Soil, and of setting out the Line of the Works, it shall be lawful for the Promoters of the Undertaking, after giving not less than Three nor more than Fourteen Days Notice to the Owners or Occupiers thereof, to enter upon such Lands without previous Consent, making Compensation for any Damage thereby occasioned to the Owners or Occupiers thereof.

*Payment of
Price to be made
previous to
Entry, except
to survey, &c.*

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8 Vic. c. 18.

Promoters to be
allowed to enter
on Lands before
Purchase, on
making Deposit
by way of Secu-
rity, and giving
Bond.

LXXXV. Provided also, That if the Promoters of the Undertaking shall be desirous of entering upon and using any such Lands before an Agreement shall have been come to or an Award made or Verdict given for the Purchase Money or Compensation to be paid by them in respect of such Lands, it shall be lawful for the Promoters of the Undertaking to deposit in the Bank by way of Security, as herein-after mentioned, either the Amount of Purchase Money or Compensation claimed by any Party interested in or entitled to sell and convey such Lands, and who shall not consent to such Entry, or such a Sum as shall, by a Surveyor appointed by Two Justices in the Manner herein-before provided in the Case of Parties who cannot be found, be determined to be the Value of such Lands or of the Interest therein which such Party is entitled to or enabled to sell and convey, and also to give to such Party a Bond, under the Common Seal of the Promoters, if they be a Corporation, or if they be not a Corporation, under the Hands and Seals of the said Promoters or any Two of them, with Two sufficient Sureties, to be approved of by Two Justices, in case the Parties differ, in a penal Sum equal to the Sum so to be deposited, conditioned for Payment to such Party, or for Deposit in the Bank for the Benefit of the Parties interested in such Lands, as the Case may require, under the Provisions herein contained, of all such Purchase Money or Compensation as may in manner herein-before provided be determined to be payable by the Promoters of the Undertaking in respect of the Lands so entered upon, together with Interest thereon at the Rate of Five Pounds *per Centum per Annum* from the Time of entering on such Lands until such Purchase Money or Compensation shall be paid to such Party, or deposited in the Bank for the Benefit of the Parties interested in such Lands, under the Provisions herein contained; and upon such Deposit by way of Security being made as aforesaid, and such Bond being delivered or tendered to such non-consenting Party as aforesaid, it shall be lawful for the Promoters of the Undertaking to enter upon and use such Lands, without having first paid or deposited the Purchase Money or Compensation in other Cases required to be paid or deposited by them before entering upon any Lands to be taken by them under the Provisions of this or the special Act.

Upon Deposit
being made
Cashier to give
Receipt.

LXXXVI. The Money so to be deposited as last aforesaid shall be paid into the Bank in the Name and with the Privity of the Accountant General of the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, to be placed to his Account there to the Credit of the Parties interested in or entitled to sell and convey the Lands so to be entered upon, and who shall not have consented to such Entry, subject to the Control and Disposition of the said Court; and upon such Deposit being made the Cashier of the Bank shall give to the Promoters of the Undertaking, or to the Party paying in such Money

by their Direction, a Receipt for such Money, specifying therein for what Purpose and to whose Credit the same shall have been paid in.

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8 *Vic. c. 18.*

LXXXVII. The Money so deposited as last aforesaid shall remain in the Bank, by way of Security to the Parties whose Lands shall so have been entered upon for the Performance of the Conditions of the Bond to be given by the Promoters of the Undertaking, as herein-before mentioned, and the same may, on the Application by Petition of the Promoters of the Undertaking, be ordered to be invested in Bank Annuities or Government Securities, and accumulated; and upon the Condition of such Bond being fully performed it shall be lawful for the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, upon a like Application, to order the Money so deposited, or the Funds in which the same shall have been invested, together with the Accumulation thereof, to be repaid or transferred to the Promoters of the Undertaking, or if such Condition shall not be fully performed, it shall be lawful for the said Court to order the same to be applied in such Manner as it shall think fit for the Benefit of the Parties for whose Security the same shall so have been deposited.

Deposit to remain as a Security, and to be applied under the Direction of the Court.

LXXXVIII. If at any Time the Company be unable, by reason of the closing of the Office of the Accountant General of the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, to obtain his Authority in respect of the Payment of any Sum of Money so authorized to be deposited in the Bank by way of Security as aforesaid, it shall be lawful for the Company to pay into the Bank to the Credit of such Party or Matter as the Case may require (subject nevertheless to being dealt with as herein-after provided, and not otherwise,) such Sum of Money as the Promoters of the Undertaking shall, by some Writing signed by their Secretary or Solicitors for the Time being, addressed to the Governor and Company of the Bank in that Behalf, request, and upon any such Payment being made the Cashier of the Bank shall give a Certificate thereof; and in every such Case, within Ten Days after the re-opening of the said Accountant General's Office, the Solicitor for the Promoters of the Undertaking shall there bespeak the Direction for the Payment of such Sum into the Name of the Accountant General, and upon Production of such Direction at the Bank of *England* the Money so previously paid in shall be placed to the Credit of the said Accountant General accordingly, and the Receipt for the said Payment be given to the Party making the same in the usual Way for the Purpose of being filed at the Report Office.

The Company may pay the Deposit Money into the Bank by way of Security during the Time that the Office of the Accountant General is closed.

LXXXIX. If the Promoters of the Undertaking or any of their Contractors shall, except as aforesaid, wilfully enter upon and take possession of any Lands which shall be required to be purchased or permanently used for the Purposes of the special Act, without such Consent as aforesaid, or without having made such Payment for the

Penalty on the Promoters of the Undertaking entering upon Lands without Consent before Payment of the Purchase Money.

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8 *Vic. c. 18.*

Benefit of the Parties interested in the Lands, or such Deposit by way of Security as aforesaid, the Promoters of the Undertaking shall forfeit to the Party in possession of such Lands the Sum of Ten Pounds, over and above the Amount of any Damage done to such Lands by reason of such Entry and taking possession as aforesaid, such Penalty and Damage respectively to be recovered before Two Justices; and if the Promoters of the Undertaking or their Contractors shall, after Conviction in such Penalty as aforesaid, continue in unlawful Possession of any such Lands, the Promoters of the Undertaking shall be liable to forfeit the Sum of Twenty-five Pounds for every Day they or their Contractors shall so remain in possession as aforesaid, such Penalty to be recoverable by the Party in possession of such Lands, with Costs, by Action in any of the Superior Courts: Provided always, that nothing herein contained shall be held to subject the Promoters of the Undertaking to the Payment of any such Penalties as aforesaid, if they shall *bona fide* and without Collusion have paid the Compensation agreed or awarded to be paid in respect of the said Lands to any Person whom the Promoters of the Undertaking may have reasonably believed to be entitled thereto, or shall have deposited the same in the Bank for the Benefit of the Parties interested in the Lands, or made such Deposit by way of Security in respect thereof as herein-before mentioned, although such Person may not have been legally entitled thereto.

Decision of Justices not conclusive as to the Rights of the Promoters.

XC. On the Trial of any Action for any such Penalty as aforesaid the Decision of the Justices under the Provision herein-before contained shall not be held conclusive as to the Right of Entry on any such Lands by the Promoters of the Undertaking.

Proceedings in case of Refusal to deliver possession of Lands.

XCI. If in any Case in which, according to the Provisions of this or the special Act, or any Act incorporated therewith, the Promoters of the Undertaking are authorized to enter upon and take possession of any Lands required for the Purposes of the Undertaking, the Owner or Occupier of any such Lands or any other Person refuse to give up the possession thereof, or hinder the Promoters of the Undertaking from entering upon or taking possession of the same, it shall be lawful for the Promoters of the Undertaking to issue their Warrant to the Sheriff to deliver Possession of the same to the Person appointed in such Warrant to receive the same, and upon the Receipt of such Warrant the Sheriff shall deliver Possession of any such Lands accordingly, and the Costs accruing by reason of the issuing and Execution of such Warrant, to be settled by the Sheriff, shall be paid by the Person refusing to give Possession, and the Amount of such Costs shall be deducted and retained by the Promoters of the Undertaking from the Compensation, if any, then payable by them to such Party, or if no such Compensation, be payable to such Party, or if the same be less than the Amount of such Costs, then such Costs,

or the Excess thereof beyond such Compensation, if not paid on Demand, shall be levied by Distress, and upon Application to any Justice of the Peace for that Purpose he shall issue his Warrant accordingly.

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8 Vic. c. 18.

XCII. And be it enacted, That no Party shall at any Time be required to sell or convey to the Promoters of the Undertaking a Part only of any House or other Building or Manufactory, if such Party be willing and able to sell and convey the whole thereof.

*Parties not to be
required to sell
Part of a House*

And with respect to small Portions of intersected Land, be it enacted as follows:

*Intersected
Lands.*

XCIII. If any Lands not being situate in a Town or built upon shall be so cut through and divided by the Works as to leave, either on both Sides or on one Side thereof, a less Quantity of Land than Half a Statute Acre, and if the Owner of such small Parcel of Land require the Promoters of the Undertaking to purchase the same along with the other Land required for the Purposes of the special Act, the Promoters of the Undertaking shall purchase the same accordingly, unless the Owner thereof have other Land adjoining to that so left into which the same can be thrown, so as to be conveniently occupied therewith; and if such Owner have any other Land so adjoining, the Promoters of the Undertaking shall, if so required by the Owner, at their own Expense, throw the Piece of Land so left into such adjoining Land, by removing the Fences and levelling the Sites thereof, and by soiling the same in a sufficient and workmanlike Manner.

*Owners of intersected
Lands may insist on
Sale.*

XCIV. If any such Land shall be so cut through and divided as to leave on either Side of the Works a Piece of Land of less Extent than Half a Statute Acre, or of less Value than the Expense of making a Bridge, Culvert, or such other Communication between the Land so divided as the Promoters of the Undertaking are, under the Provisions of this or the special Act, or any Act incorporated therewith, compellable to make, and if the Owner of such Lands have not other Lands adjoining such Piece of Land, and require the Promoters of the Undertaking to make such Communication, then the Promoters of the Undertaking may require such Owner to sell to them such Piece of Land, and any Dispute as to the Value of such Piece of Land, or as to what would be the Expense of making such Communication, shall be ascertained as herein provided for Cases of disputed Compensation; and on the Occasion of ascertaining the Value of the Land required to be taken for the Purposes of the Works, the Jury or the Arbitrators, as the Case may be, shall, if required by either Party, ascertain by their Verdict or Award the Value of any such severed Piece of Land, and also what would be the Expense of making such Communication.

*Promoters of the
Undertaking may insist on
Purchase where
Expense of
Bridges, &c.
exceeds the
Value.*

And with respect to Copyhold Lands, be it enacted as follows:

Copyholds.

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8 *Vic. c. 18.* *Conveyance of Copyhold Lands to be enrolled.* XCV. Every Conveyance to the Promoters of the Undertaking of any Lands which shall be of Copyhold or Customary Tenure or of the Nature thereof shall be entered on the Rolls of the Manor of which the same shall be held or parcel; and on Payment to the Steward of such Manor of such Fees as would be due to him on the Surrender of the same Lands to the Use of a Purchaser thereof he shall make such Enrolment; and every such Conveyance, when so enrolled, shall have the like Effect, in respect of such Copyhold or Customary Lands, as if the same had been of Freehold Tenure, nevertheless, until such Lands shall have been enfranchised by virtue of the Powers herein-after contained, they shall continue subject to the same Fines, Rents, Heriots, and Services as were theretofore payable and of Right accustomed.

Copyhold Lands to be enfranchised. XCVI. Within Three Months after the Enrolment of the Conveyance of any such Copyhold or Customary Lands, or within One Month after the Promoters of the Undertaking shall enter upon and make use of the same for the Purposes of the Works, whichever shall first happen, or if more than One Parcel of such Lands holden of the same Manor shall have been taken by them, then, within One Month after the last of such Parcels shall have been so taken or entered on by them, the Promoters of the Undertaking shall procure the whole of the Lands holden of such Manor so taken by them to be enfranchised, and for that Purpose shall apply to the Lord of the Manor whereof such Lands are holden to enfranchise the same, and shall pay to him such Compensation in respect thereof as shall be agreed upon between them and him, and if the Parties fail to agree respecting the Amount of the Compensation to be paid for such Enfranchisement the same shall be determined as in other Cases of disputed Compensation; and in estimating such Compensation the Loss in respect of the Fines, Heriots, and other Services payable on Death, Descent, or Alienation, or any other Matters which would be lost by the vesting of such Copyhold or Customary Lands in the Promoters of the Undertaking, or by the Enfranchisement of the same, shall be allowed for.

Lord of the Manor to enfranchise on Payment of Compensation. XCVII. Upon Payment or Tender of the Compensation so agreed upon or determined, or on Deposit thereof in the Bank in any of the Cases herein-before in that Behalf provided, the Lord of the Manor whereof such Copyhold or Customary Lands shall be holden shall enfranchise such Lands, and the Lands so enfranchised shall for ever thereafter be held in Free and Common Soccage; and in default of such Enfranchisement by the Lord of the Manor, or if he fail to adduce a good Title thereto to the Satisfaction of the Promoters of the Undertaking, it shall be lawful for them, if they think fit, to execute a Deed Poll, duly stamped, in the Manner herein-before provided in the Case of the Purchase of Lands by them, and thereupon the Lands in respect of the Enfranchisement whereof such Compensation shall have

been deposited as aforesaid shall be deemed to be enfranchised, and shall be for ever thereafter held in Free and Common Soccage.

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XCVIII. If any such Copyhold or Customary Lands be subject to any customary or other Rent, and Part only of the Land subject to any such Rent be required to be taken for the Purposes of the special Act, the Apportionment of such Rent may be settled by Agreement between the Owner of the Lands and the Lord of the Manor on the one Part, and the Promoters of the Undertaking on the other Part, and if such Apportionment be not so settled by Agreement, then the same shall be settled by Two Justices ; and the Enfranchisement of any Copyhold or Customary Lands taken by virtue of this or the special Act, or the Apportionment of such Rents, shall not affect in other respects any Custom by or under which any such Copyhold or Customary Lands not taken for such Purposes shall be held ; and if any of the Lands so required be released from any Portion of the Rents to which they were subject jointly with any other Lands, such last-mentioned Lands shall be charged with the Remainder only of such Rents ; and with reference to any such apportioned Rents, the Lord of the Manor shall have all the same Rights and Remedies over the Lands to which such apportioned Rent shall have been assigned or attributed as he had previously over the whole of the Lands subject to such Rents for the whole of such Rents.

And with respect to any such Lands being Common or Waste Lands, be it enacted as follows :

*Common
Lands.*

XCIX. The Compensation in respect of the Right in the Soil of any Lands subject to any Rights of Common shall be paid to the Lord of the Manor, in case he shall be entitled to the same, or to such Party, other than the Commoners, as shall be entitled to such Right in the Soil ; and the Compensation in respect of all other commonable and other Rights in or over such Lands, including therein any commonable or other Rights to which the Lord of the Manor may be entitled, other than his Right in the Soil of such Lands, shall be determined and paid and applied in manner herein-after provided with respect to Common Lands the Right in the Soil of which shall belong to the Commoners ; and upon Payment or Deposit in the Bank of the Compensation so determined all such commonable and other Rights shall cease and be extinguished.

*Compensation
for Common
Lands, where
held of a Manor,
&c., how to be
paid.*

C. Upon Payment or Tender to the Lord of the Manor, or such other Party as aforesaid, of the Compensation which shall have been agreed upon or determined in respect of the Right in the Soil of any such Lands, or on Deposit thereof in the Bank in any of the Cases herein-before in that Behalf provided, such Lord of the Manor, or such other Party as aforesaid, shall convey such Lands to the Promoters of the Undertaking, and such Conveyance shall have the Effect of vesting

*Lord of the Ma-
nor, &c. to con-
vey to the Pro-
moters of the
Undertaking, on
receiving Com-
pensation for
his Interest.*

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such Lands in the Promoters of the Undertaking, in like Manner as if such Lord of the Manor, or such other Party as aforesaid, had been seised in Fee Simple of such Lands at the Time of executing such Conveyance; and in default of such Conveyance it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll, duly stamped, in the Manner herein-before provided in the Case of the Purchase of Lands by them, and thereupon the Lands in respect whereof such last-mentioned Compensation shall have been deposited as aforesaid shall vest absolutely in the Promoters of the Undertaking, and they shall be entitled to immediate Possession thereof, subject nevertheless to the commonable and other Rights theretofore affecting the same, until such Rights shall have been extinguished by Payment or Deposit of the Compensation for the same in manner herein-after provided.

Compensation for Common Lands where not held of a Manor how to be ascertained.

CI. The Compensation to be paid with respect to any such Lands, being Common Lands, or in the Nature thereof, the Right to the Soil of which shall belong to the Commoners, as well as the Compensation to be paid for the commonable and other Rights in or over Common Lands the Right in the Soil whereof shall not belong to the Commoners, other than the Compensation to the Lord of the Manor, or other Party entitled to the Soil thereof, in respect of his Right in the Soil thereof, shall be determined by Agreement between the Promoters of the Undertaking and a Committee of the Parties entitled to commonable or other Rights in such Lands, to be appointed as next herein-after mentioned.

A Meeting of the parties interested to be convened.

CII. It shall be lawful for the Promoters of the Undertaking to convene a Meeting of the Parties entitled to commonable or other Rights over or in such Lands to be held at some convenient Place in the Neighbourhood of the Lands, for the Purpose of their appointing a Committee to treat with the Promoters of the Undertaking for the Compensation to be paid for the Extinction of such commonable or other Rights; and every such Meeting shall be called by public Advertisement to be inserted once at least in Two consecutive Weeks in some Newspaper circulating in the County or in the respective Counties and in the Neighbourhood in which such Lands shall be situate, the last of such Insertions being not more than Fourteen nor less than Seven Days prior to any such Meeting; and Notice of such Meeting shall also, not less than Seven Days previous to the holding thereof, be affixed upon the Door of the Parish Church where such Meeting is intended to be held, or if there be no such Church some other Place in the Neighbourhood to which Notices are usually affixed; and if such Lands be parcel or holden of a Manor a like Notice shall be given to the Lord of such Manor.

Meeting to appoint a Committee.

CIII. It shall be lawful for the Meeting so called to appoint a Committee not exceeding Five in Number of the Parties entitled to any

such Rights, and at such Meeting the Decision of the Majority of the Persons entitled to commonable Rights present shall bind the Minority and all absent Parties. *Appendix No. 6. Vic. c. 18.*

CIV. It shall be lawful for the Committee so chosen to enter into an Agreement with the Promoters of the Undertaking for the Compensation to be paid for the Extinction of such commonable and other Rights and all Matters relating thereto, for and on behalf of themselves and all other Parties interested therein; and all such Parties shall be bound by such Agreement; and it shall be lawful for such Committee to receive the Compensation so agreed to be paid, and the Receipt of such Committee, or of any Three of them, for such Compensation, shall be an effectual Discharge for the same, and such Compensation, when received, shall be apportioned by the Committee among the several Persons interested therein according to their respective Interests, but the Promoters of the Undertaking shall not be bound to see to the Apportionment or to the Application of such Compensation, nor shall they be liable for the Misapplication or Non-application thereof. *Committee to agree with the Promoters of the Undertaking.*

CV. If upon such Committee being appointed they shall fail to agree with the Promoters of the Undertaking as to the Amount of the Compensation to be paid as aforesaid the same shall be determined as in other Cases of disputed Compensation. *Disputes to be settled as in other Cases.*

CVI. If, upon being duly convened by the Promoters of the Undertaking, no effectual Meeting of the Parties entitled to such commonable or other Rights shall take place, or if, taking place, such Meeting fail to appoint such Committee, the Amount of such Compensation shall be determined by a Surveyor to be appointed by Two Justices, as herein-before provided in the Case of Parties who cannot be found. *If no Committee be appointed, the Amount to be determined by a Surveyor.*

CVII. Upon Payment or Tender to such Committee, or any Three of them, or if there shall be no such Committee then upon Deposit in the Bank in the Manner provided in the like Case of the Compensation which shall have been agreed upon or determined in respect of such commonable or other Rights, it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll, duly stamped in the Manner herein-before provided in the Case of the Purchase of Lands by them, and thereupon the Lands in respect of which such Compensation shall have been so paid or deposited shall vest in the Promoters of the Undertaking, freed and discharged from all such commonable or other Rights, and they shall be entitled to immediate Possession thereof; and it shall be lawful for the Court of Chancery in *England* or the Court of Exchequer in *Ireland*, by an Order to be made upon Petition, to order Payment of the Money so deposited to a Committee to be appointed as aforesaid, or to make such other Order in respect thereto, for the Benefit of the Parties interested, as it shall think fit. *Upon Payment of Compensation payable to Commoners the Lands to vest.*

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8 Vic. c. 18.

Lands in Mortgage.

Power to redeem Mortgages.

And with respect to Lands subject to Mortgage, be it enacted as follows :

CVIII. It shall be lawful for the Promoters of the Undertaking to purchase or redeem the Interest of the Mortgagee of any such Lands which may be required for the Purposes of the special Act, and that whether they shall have previously purchased the Equity of Redemption of such Lands or not, and whether the Mortgagee thereof be entitled thereto in his own Right or in trust for any other Party, and whether he be in possession of such Lands by virtue of such Mortgage or not, and whether such Mortgage affect such Lands solely, or jointly with any other Lands not required for the Purposes of the special Act, and in order thereto the Promoters of the Undertaking may pay or tender to such Mortgagee the Principal and Interest due on such Mortgage, together with his Costs and Charges, if any, and also Six Months additional Interest, and thereupon such Mortgagee shall immediately convey his Interest in the Lands comprised in such Mortgage to the Promoters of the Undertaking, or as they shall direct, or the Promoters of the Undertaking may give Notice in Writing to such Mortgagee that they will pay off the Principal and Interest due on such Mortgage at the End of Six Months, computed from the Day of giving such Notice ; and if they shall have given any such Notice, or if the Party entitled to the Equity of Redemption of any such Lands shall have given Six Months Notice of his Intention to redeem the same, then at the Expiration of either of such Notices, or at any intermediate Period, upon Payment or Tender by the Promoters of the Undertaking to the Mortgagee of the Principal Money due on such Mortgage, and the Interest which would become due at the End of Six Months from the Time of giving either of such Notices, together with his Costs and Expenses, if any, such Mortgagee shall convey or release his Interest in the Lands comprised in such Mortgage to the Promoters of the Undertaking, or as they shall direct.

Deposit of Mortgage Money on Refusal to accept.

CIX. If, in either of the Cases aforesaid, upon such Payment or Tender, any Mortgagee shall fail to convey or release his Interest in such Mortgage as directed by the Promoters of the Undertaking, or if he fail to adduce a good Title thereto to their Satisfaction, then it shall be lawful for the Promoters of the Undertaking to deposit in the Bank, in the Manner provided by this Act in like Cases, the Principal and Interest, together with the Costs, if any, due on such Mortgage, and also, if such Payment be made before the Expiration of Six Months Notice as aforesaid, such further Interest as would at that Time become due ; and it shall be lawful for them, if they think fit, to execute a Deed Poll, duly stamped, in the Manner herein before provided in the Case of the Purchase of Lands by them ; and thereupon, as well as upon such Conveyance by the Mortgagee, if any such be made, all the

Estate and Interest of such Mortgagee, and of all Persons in trust for him, or for whom he may be a Trustee, in such Lands, shall vest in the Promoters of the Undertaking, and they shall be entitled to immediate Possession thereof in case such Mortgagee were himself entitled to such Possession.

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CX. If any such mortgaged Lands shall be of less Value than the Principal, Interest, and Costs secured thereon, the Value of such Lands, or the Compensation to be made by the Promoters of the Undertaking in respect thereof, shall be settled by Agreement between the Mortgagee of such Lands and the Party entitled to the Equity of Redemption thereof on the one Part, and the Promoters of the Undertaking on the other Part, and if the Parties aforesaid fail to agree respecting the Amount of such Value or Compensation, the same shall be determined as in other Cases of disputed Compensation; and the Amount of such Value or Compensation, being so agreed upon or determined, shall be paid by the Promoters of the Undertaking to the Mortgagee in satisfaction of his Mortgage Debt so far as the same will extend, and upon Payment or Tender thereof the Mortgagee shall convey or release all his Interest in such mortgaged Lands to the Promoters of the Undertaking, or as they shall direct.

*Sum to be paid
when Mortgage
exceeds the
Value of the
Lands.*

CXI. If, upon such Payment or Tender as aforesaid being made, any such Mortgagee fail so to convey his Interest in such Mortgage, or to adduce a good Title thereto to the Satisfaction of the Promoters of the Undertaking, it shall be lawful for them to deposit the Amount of such Value or Compensation in the Bank, in the Manner provided by this Act in like Cases, and every such Payment or Deposit shall be accepted by the Mortgagee in satisfaction of his Mortgage Debt, so far as the same will extend, and shall be a full Discharge of such mortgaged Lands from all Money due thereon; and it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll, duly stamped, in the Manner herein-before provided in the Case of the Purchase of Lands by them; and thereupon such Lands, as to all such Estate and Interest as were then vested in the Mortgagee, or any Person in trust for him, shall become absolutely vested in the Promoters of the Undertaking, and they shall be entitled to immediate Possession thereof in case such Mortgagee were himself entitled to such Possession; nevertheless all Rights and Remedies possessed by the Mortgagee against the Mortgagor, by virtue of any Bond or Covenant or other Obligation, other than the Right to such Lands, shall remain in force in respect of so much of the Mortgage Debt as shall not have been satisfied by such Payment or Deposit.

*Deposit of Money when refused
on Tender.*

CXII. If a Part only of any such mortgaged Lands be required for the Purposes of the special Act, and if the Part so required be of less Value than the Principal Money, Interest, and Costs secured on such

*Sum to be paid
where Part only
of mortgaged
Lands taken.*

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Lands, and the Mortgagee shall not consider the remaining Part of such Lands a sufficient Security for the Money charged thereon, or be not willing to release the Part so required, then the Value of such Part, and also the Compensation (if any) to be paid in respect of the Severance thereof or otherwise, shall be settled by Agreement between the Mortgagee and the Party entitled to the Equity of Redemption of such Land on the one Part, and the Promoters of the Undertaking on the other, and if the Parties aforesaid fail to agree respecting the Amount of such Value or Compensation the same shall be determined as in other Cases of disputed Compensation ; and the Amount of such Value or Compensation, being so agreed upon or determined, shall be paid by the Promoters of the Undertaking to such Mortgagee in satisfaction of his Mortgage Debt so far as the same will extend ; and thereupon such Mortgagee shall convey or release to them, or as they shall direct, all his Interest in such mortgaged Lands the Value whereof shall have been so paid ; and a Memorandum of what shall have been so paid shall be endorsed on the Deed creating such Mortgage, and shall be signed by the Mortgagee ; and a Copy of such Memorandum shall at the same Time (if required) be furnished by the Promoters of the Undertaking, at their Expense, to the Party entitled to the Equity of Redemption of the Lands comprised in such Mortgage Deed.

Deposit of Money when refused on Tender.

CXIII. If, upon Payment or Tender to any such Mortgagee of the Amount of the Value or Compensation so agreed upon or determined, such Mortgagee shall fail to convey or release to the Promoters of the Undertaking, or as they shall direct, his Interest in the Lands in respect of which such Compensation shall so have been paid or tendered, or if he shall fail to adduce a good Title thereto to the Satisfaction of the Promoters of the Undertaking, it shall be lawful for the Promoters of the Undertaking to pay the Amount of such Value or Compensation into the Bank, in the Manner provided by this Act in the Case of Monies required to be deposited in such Bank, and such Payment or Deposit shall be accepted by such Mortgagee in satisfaction of his Mortgage Debt, so far as the same will extend, and shall be a full Discharge of the Portion of the mortgaged Lands so required from all Money due thereon ; and it shall be lawful for the Promoters of the Undertaking, if they think fit, to execute a Deed Poll duly stamped, in the Manner herein-before provided in the Case of the Purchase of Lands by them ; and thereupon such Lands shall become absolutely vested in the Promoters of the Undertaking, as to all such Estate and Interest as were then vested in the Mortgagee, or any Person in trust for him, and in case such Mortgagee were himself entitled to such Possession they shall be entitled to immediate Possession thereof ; nevertheless, every such Mortgagee shall have the same Powers and Remedies for recovering or compelling Payment of the Mortgage Money or the Residue thereof (as the Case may be), and the Interest

thereof respectively, upon and out of the Residue of such mortgaged Lands, or the Portion thereof not required for the Purposes of the special Act, as he would otherwise have had or been entitled to for recovering or compelling Payment thereof upon or out of the whole of the Lands originally comprised in such Mortgage.

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CXIV. Provided always, That in any of the Cases herein-before provided with respect to Lands subject to Mortgage, if in the Mortgage Deed a Time shall have been limited for Payment of the Principal Money thereby secured, and under the Provisions herein-before contained the Mortgagee shall have been required to accept Payment of his Mortgage Money, or of Part thereof, at a Time earlier than the Time so limited, the Promoters of the Undertaking shall pay to such Mortgagee, in addition to the Sum which shall have been so paid off, all such Costs and Expenses as shall be incurred by such Mortgagee in respect of or which shall be incidental to the Re-investment of the Sum so paid off, such Costs in case of Difference to be taxed and Payment thereof enforced in the Manner herein provided with respect to the Costs of Conveyances; and if the Rate of Interest secured by such Mortgage be higher than at the Time of the same being so paid off can reasonably be expected to be obtained on re-investing the same, regard being had to the then current Rate of Interest, such Mortgagee shall be entitled to receive from the Promoters of the Undertaking, in addition to the Principal and Interest herein-before provided for, Compensation in respect of the Loss to be sustained by him by reason of his Mortgage Money being so prematurely paid off, the Amount of such Compensation to be ascertained, in case of Difference, as in other Cases of disputed Compensation; and until Payment or Tender of such Compensation as aforesaid the Promoters of the Undertaking shall not be entitled, as against such Mortgagee, to Possession of the mortgaged Lands under the Provision herein-before contained.

Compensation to be made in certain Cases, if Mortgage paid off before the stipulated Time.

And with respect to Lands charged with any Rent Service, Rent-charge, or chief or other Rent, or other Payment or Incumbrance not herein-before provided for, be it enacted as follows: *Rentcharges.*

CXV. If any Difference shall arise between the Promoters of the Undertaking and the Party entitled to any such Charge upon any Lands required to be taken for the Purposes of the special Act, respecting the Consideration to be paid for the Release of such Lands therefrom, or from the Portion thereof affecting the Lands required for the Purposes of the special Act, the same shall be determined as in other Cases of disputed Compensation.

Release of Lands from Rent-charges.

CXVI. If Part only of the Lands charged with any such Rent Service, Rentcharge, chief or other Rent, Payment, or Incumbrance, be required to be taken for the Purposes of the special Act, the Apportionment of any such Charge may be settled by Agreement between

Release of Part of Lands from Charge.

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8 *Vic. c. 18.*

the Party entitled to such Charge and the Owner of the Lands on the one Part, and the Promoters of the Undertaking on the other Part, and if such Apportionment be not so settled by Agreement the same shall be settled by Two Justices; but if the remaining Part of the Lands so jointly subject be a sufficient Security for such Charge, then, with Consent of the Owner of the Lands so jointly subject, it shall be lawful for the Party entitled to such Charge to release therefrom the Lands required, on condition or in consideration of such other Lands remaining exclusively subject to the whole thereof.

Deposit in case
of Refusal to
release.

CXVII. Upon Payment or Tender of the Compensation so agreed upon or determined to the Party entitled to any such Charge as aforesaid, such Party shall execute to the Promoters of the Undertaking a Release of such Charge; and if he fails so to do, or if he fail to adduce good Title to such Charge to the Satisfaction of the Promoters of the Undertaking, it shall be lawful for them to deposit the Amount of such Compensation in the Bank in the Manner herein-before provided in like Cases, and also, if they think fit, to execute a Deed Poll, duly stamped, in the Manner herein-before provided in the Case of the Purchase of Lands by them, and thereupon the Rent Service, Rentcharge, chief or other Rent, Payment, or Incumbrance, or the Portion thereof in respect whereof such Compensation shall so have been paid, shall cease and be extinguished.

Charge to con-
tinue on Lands
not taken.

CXVIII. If any such Lands be so released from any such Charge or Incumbrance, or Portion thereof, to which they were subject jointly with other Lands, such last-mentioned Lands shall alone be charged with the whole of such Charge, or with the Remainder thereof, as the Case may be, and the Party entitled to the Charge shall have all the same Rights and Remedies over such last-mentioned Lands for the whole or for the Remainder of the Charge, as the Case may be, as he had previously over the whole of the Lands subject to such Charge; and if upon any such Charge or Portion of Charge being so released the Deed or Instrument creating or transferring such Charge be tendered to the Promoters of the Undertaking for the Purpose, they or Two of them shall subscribe or if they be a Corporation shall affix their Common Seal to a Memorandum of such Release endorsed on such Deed or Instrument, declaring what Part of the Lands originally subject to such Charge shall have been purchased by virtue of the special Act, and if the Lands be released from Part of such Charge, what Proportion of such Charge shall have been released, and how much thereof continues payable, or if the Lands so required shall have been released from the whole of such Charge, then that the remaining Lands are thenceforward to remain exclusively charged therewith; and such Memorandum shall be made and executed at the Expense of the Promoters of the Undertaking, and shall be Evidence in all Courts

and elsewhere of the Facts therein stated, but not so as to exclude any other Evidence of the same Facts.

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And with respect to Lands subject to Leases, be it enacted as follows :

Leases.
—

CXIX. If any Lands shall be comprised in a Lease for a Term of Years unexpired, Part only of which Lands shall be required for the Purposes of the special Act, the Rent payable in respect of the Lands comprised in such Lease shall be apportioned between the Lands so required and the Residue of such Lands ; and such Apportionment may be settled by Agreement between the Lessor and Lessee of such Lands on the one Part, and the Promoters of the Undertaking on the other Part ; and if such Apportionment be not so settled by Agreement between the Parties, such Apportionment shall be settled by Two Justices ; and after such Apportionment the Lessee of such Lands shall, as to all future accruing Rent, be liable only to so much of the Rent as shall be so apportioned in respect of the Lands not required for the Purposes of the special Act ; and as to the Lands not so required, and as against the Lessee, the Lessor shall have all the same Rights and Remedies for the Recovery of such Portion of Rent as previously to such Apportionment he had for the Recovery of the whole Rent reserved by such Lease ; and all the Covenants, Conditions, and Agreements of such Lease, except as to the Amount of Rent to be paid, shall remain in force with regard to that Part of the Land which shall not be required for the Purposes of the special Act, in the same Manner as they would have done in case such Part only of the Land had been included in the Lease.

Where Part only of Lands under Lease taken the Rent to be apportioned

CXX. Every such Lessee as last aforesaid shall be entitled to receive from the Promoters of the Undertaking Compensation for the Damage done to him in his Tenancy by reason of the Severance of the Lands required from those not required, or otherwise by reason of the Execution of the Works.

Tenants to be compensated.

CXXI. If any such Lands shall be in the Possession of any Person having no greater Interest therein than as Tenant for a Year or from Year to Year, and if such Person be required to give up Possession of any Lands so occupied by him before the Expiration of his Term or Interest therein, he shall be entitled to Compensation for the Value of his unexpired Term or Interest in such Lands, and for any just Allowance which ought to be made to him by an in-coming Tenant, and for any Loss or Injury he may sustain, or, if a Part only of such Lands be required, Compensation for the Damage done to him in his Tenancy by severing the Lands held by him or otherwise injuriously affecting the same ; and the Amount of such Compensation shall be determined by Two Justices, in case the Parties differ about the same ; and upon

Compensation to be made to Tenants at Will, &c.

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Payment or Tender of the Amount of such Compensation all such Persons shall respectively deliver up to the Promoters of the Undertaking, or to the Person appointed by them to take possession thereof, any such Lands in their Possession required for the Purposes of the special Act.

Where greater Interest claimed than from Year to Year, Lease to be produced.

CXXII. If any Party, having a greater Interest than as Tenant at Will, claim Compensation in respect of any unexpired Term or Interest under any Lease or Grant of any such Lands, the Promoters of the Undertaking may require such Party to produce the Lease or Grant in respect of which such Claim shall be made, or the best Evidence thereof in his Power; and if, after Demand made in Writing by the Promoters of the Undertaking, such Lease or Grant, or such best Evidence thereof, be not produced within Twenty-one Days, the Party so claiming Compensation shall be considered as a Tenant holding only from Year to Year, and be entitled to Compensation accordingly.

Limit of Time for compulsory Purchase.

CXXIII. And be it enacted, That the Powers of the Promoters of the Undertaking for the compulsory Purchase or taking of Lands for the Purposes of the special Act shall not be exercised after the Expiration of the prescribed Period, and if no Period be prescribed not after the Expiration of Three Years from the passing of the special Act.

Interests omitted to be purchased.

And with respect to Interests in Lands which have by Mistake been omitted to be purchased, be it enacted as follows :

Promoters of the Undertaking empowered to purchase Interests in Lands the Purchase whereof may have been omitted by Mistake.

CXXIV. If, at any Time after the Promoters of the Undertaking shall have entered upon any Lands which under the Provisions of this or the special Act, or any Act incorporated therewith, they were authorized to purchase, and which shall be permanently required for the Purposes of the special Act, any Party shall appear to be entitled to any Estate, Right, or Interest in or Charge affecting such Lands which the Promoters of the Undertaking shall through Mistake or Inadvertence have failed or omitted duly to purchase or to pay Compensation for, then, whether the Period allowed for the Purchase of Lands shall have expired or not, the Promoters of the Undertaking shall remain in the undisturbed Possession of such Lands, provided, within Six Months after Notice of such Estate, Right, Interest, or Charge, in case the same shall not be disputed by the Promoters of the Undertaking, or in case the same shall be disputed then within Six Months after the Right thereto shall have been finally established by Law in favour of the Party claiming the same, the Promoters of the Undertaking shall purchase or pay Compensation for the same, and shall also pay to such Party, or to any other Party who may establish a Right thereto, full Compensation for the meane Profits or Interest which would have accrued to such Parties respectively in respect

thereof during the Interval between the Entry of the Promoters of the Undertaking thereon and the Time of the Payment of such Purchase Money or Compensation by the Promoters of the Undertaking, so far as such mesne Profits or Interest may be recoverable in Law or Equity; and such Purchase Money or Compensation shall be agreed on or awarded and paid in like Manner as according to the Provisions of this Act the same respectively would have been agreed on or awarded and paid in case the Promoters of the Undertaking had purchased such Estate, Right, Interest, or Charge before their entering upon such Land, or as near thereto as Circumstances will admit.

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8 *Vic. c. 18.*

CXXXV. In estimating the Compensation to be given for any such last-mentioned Lands, or any Estate or Interest in the same, or for any mesne Profits thereof, the Jury, or Arbitrators, or Justices, as the Case may be, shall assess the same according to what they shall find to have been the Value of such Lands, Estate or Interest, and Profits, at the Time such Lands were entered upon by the Promoters of the Undertaking, and without regard to any Improvements or Works made in the said Lands by the Promoters of the Undertaking, and as though the Works had not been constructed.

*How Value of
such Lands to be
estimated.*

CXXXVI. In addition to the said Purchase Money, Compensation, or Satisfaction, and before the Promoters of the Undertaking shall become absolutely entitled to any such Estate, Interest, or Charge, or to have the same merged or extinguished for their Benefit, they shall, when the Right to any such Estate, Interest, or Charge shall have been disputed by the Company, and determined in favour of the Party claiming the same, pay the full Costs and Expenses of any Proceedings at Law or in Equity for the Determination or Recovery of the same to the Parties with whom any such Litigation in respect thereof shall have taken place; and such Costs and Expenses shall, in case the same shall be disputed, be settled by the proper Officer of the Court in which such Litigation took place.

*Promoters of
the Undertaking
to pay the Costs
of Litigation as
to such Lands.*

(a.) And with respect to Lands acquired by the Promoters of the Undertaking under the Provisions of this or the special Act, or any Act incorporated therewith, but which shall not be required for the Purposes thereof, be it enacted as follows:

*Sale of
superfluous
Land.*

CXXXVII. Within the prescribed Period, or if no Period be prescribed within Ten Years after the Expiration of the Time limited by the special Act for the Completion of the Works, the Promoters of the

*Lands not wanted
to be sold, or in
default to vest in*

(a.) The clauses with respect to the "sale of superfluous land" are not incorporated with the Cheltenham Act, but are not excepted in the general incorporating sections of the Public Baths and Wash-houses Amendment Act and the Labouring Classes Lodging Houses Act, ante, appendix, pages 214 and 231, see observations, page 290, appendix, ante.

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Owners of adjoining Lands.

Undertaking shall absolutely sell and dispose of all such superfluous Lands, and apply the Purchase Money arising from such Sales to the Purposes of the special Act ; and in default thereof all such superfluous Lands remaining unsold at the Expiration of such Period shall thereupon vest in and become the Property of the Owners of the Lands adjoining thereto, in proportion to the Extent of their Lands respectively adjoining the same.

Lands to be offered to Owner of Lands from which they were originally taken, or to adjoining Owners.

CXXVIII. Before the Promoters of the Undertaking dispose of any such superfluous Lands, they shall, unless such Lands be situate within a Town, or be Lands built upon or used for Building Purposes, first offer to sell the same to the Person then entitled to the Lands (if any) from which the same were originally severed ; or if such Person refuse to purchase the same, or cannot after diligent Inquiry be found, then the like Offer shall be made to the Person or to the several Persons whose Lands shall immediately adjoin the Lands so proposed to be sold, such Persons being capable of entering into a Contract for the Purchase of such Lands ; and where more than One such Person shall be entitled to such Right of Pre-emption such Offer shall be made to such Persons in succession, one after another, in such order as the Promoters of the Undertaking shall think fit.

Right of Pre-emption to be claimed within Six Weeks.

CXXIX. If any such Persons be desirous of purchasing such Lands, then within Six Weeks after such Offer of Sale they shall signify their Desire in that Behalf to the Promoters of the Undertaking, or if they decline such Offer, or if for Six Weeks they neglect to signify their Desire to purchase such Lands, the Right of Pre-emption of every such Person so declining or neglecting in respect of the Lands included in such Offer shall cease ; and a Declaration in Writing made before a Justice by some Person not interested in the Matter in question, stating that such Offer was made and was refused or not accepted within Six Weeks from the Time of making the same, or that the Person or all the Persons entitled to the Right of Pre-emption were out of the Country, or could not after diligent Inquiry be found, or were not capable of entering into a Contract for the Purchase of such Lands, shall in all Courts be sufficient Evidence of the Facts therein stated.

Differences as to Price to be settled by Arbitration.

CXXX. If any Person entitled to such Pre-emption be desirous of purchasing any such Lands, and such Person and the Promoters of the Undertaking do not agree as to the Price thereof, then such Price shall be ascertained by Arbitration, and the Costs of such Arbitration shall be in the Discretion of the Arbitrators.

Lands to be conveyed to the Purchasers.

CXXXI. Upon Payment or Tender to the Promoters of the Undertaking of the Purchase Money so agreed upon or determined as aforesaid, they shall convey such Lands to the Purchasers thereof, by Deed under the Common Seal of the Promoters of the Undertaking, if they

be a Corporation, or if not a Corporation under the Hands and Seals of the Promoters of the Undertaking, or any Two of the Directors or Managers thereof acting by the Authority of the Body; and a Deed so executed shall be effectual to vest the Lands comprised therein in the Purchaser of such Lands for the Estate which shall so have been purchased by him; and a Receipt under such Common Seal, or under the Hands of Two of the Directors or Managers of the Undertaking as aforesaid, shall be a sufficient Discharge to the Purchaser of any such Lands for the Purchase Money in such Receipt expressed to be received.

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CXXXII. In every Conveyance of Lands to be made by the Promoters of the Undertaking under this or the special Act the Word "grant," shall operate as express Covenants by the Promoters of the Undertaking, for themselves and their Successors, or for themselves, their Heirs, Executors, Administrators, and Assigns, as the Case may be, with the respective Grantees therein named, and the Successors, Heirs, Executors, Administrators, and Assigns of such Grantees, according to the Quality or Nature of such Grants, and of the Estate or Interest therein expressed to be thereby conveyed, as follows, except so far as the same shall be restrained or limited by express Words contained in any such Conveyance; (that is to say,)

*Effect of the
Word "grant"
in Conveyances.*

A Covenant that, notwithstanding any Act or Default done by the Promoters of the Undertaking, they were at the Time of the Execution of such Conveyance seised or possessed of the Lands or Premises thereby granted for an indefeasible Estate of Inheritance in Fee Simple, free from all Incumbrances done or occasioned by them, or otherwise for such Estate or Interest as therein expressed to be thereby granted, free from Incumbrances done or occasioned by them :

A Covenant that the Grantee of such Lands, his Heirs, Successors, Executors, Administrators, and Assigns, (as the Case may be,) shall quietly enjoy the same against the Promoters of the Undertaking, and their Successors, and all other Persons claiming under them, and be indemnified and saved harmless by the Promoters of the Undertaking and their Successors from all Incumbrances created by the Promoters of the Undertaking :

A Covenant for further Assurance of such Lands, at the Expense of such Grantee, his Heirs, Successors, Executors, Administrators, or Assigns, (as the Case may be,) by the Promoters of the Undertaking, or their Successors, and all other Persons claiming under them :

And all such Grantees, and their several Successors, Heirs, Executors, Administrators, and Assigns respectively, according to their respective Quality or Nature, and the Estate or Interest in such Conveyance ex-

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8 *Vis. c. 18.* Breaches of Covenants, as they might do if such Covenants were expressly inserted in such Conveyances.

Land Tax and
Poor's Rate to
be made good.

CXXXIII. And be it enacted, That if the Promoters of the Undertaking become possessed by virtue of this or the special Act, or any Act incorporated therewith, of any Lands charged with the Land Tax, or liable to be assessed to the Poor's Rate, they shall from Time to Time, until the Works shall be completed and assessed to such Land Tax or Poor's Rate, be liable to make good the Deficiency in the several Assessments for Land Tax and Poor's Rate by reason of such Lands having been taken or used for the Purposes of the Works, and such Deficiency shall be computed according to the Rental at which such Lands, with any Building thereon, were valued or rated at the Time of the passing of the special Act; and on Demand of such Deficiency the Promoters of the Undertaking, or their Treasurer, shall pay all such Deficiencies to the Collector of the said Assessments respectively; nevertheless, if at any Time the Promoters of the Undertaking think fit to redeem such Land Tax, they may do so in accordance with the Powers in that Behalf given by the Acts for the Redemption of the Land Tax.

Service of No-
tices upon Com-
pany.

CXXXIV. And be it enacted, That any Summons or Notice, or any Writ or other Proceeding at Law or in Equity, requiring to be served upon the Promoters of the Undertaking, may be served by the same being left at or transmitted through the Post directed to the principal Office of the Promoters of the Undertaking, or One of the principal Offices where there shall be more than One, or being given or transmitted through the Post directed to the Secretary, or in case there be no Secretary the Solicitor of the said Promoters.

Tender of
Amends.

CXXXV. And be it enacted, That if any Party shall have committed any Irregularity, Trespass, or other wrongful Proceeding in the Execution of this or the special Act, or any Act incorporated therewith, or by virtue of any Power or Authority thereby given, and if, before Action brought in respect thereof, such Party make Tender of sufficient Amends to the Party injured, such last-mentioned Party shall not recover in any such Action; and if no such Tender shall have been made it shall be lawful for the Defendant, by Leave of the Court where such Action shall be pending, at any Time before Issue joined, to pay into Court such Sum of Money as he shall think fit, and thereupon such Proceedings shall be had as in other Cases where Defendants are allowed to pay Money into Court.

Recovery of Penalties. And with respect to the Recovery of Forfeitures, Penalties, and (a.) Costs, be it enacted as follows:

(a.) The clauses with respect to the recovery of Penalties are not made part of the Cheltenham Improvement Act, but are not excepted from the general incorporating sections of the Bath and

CXXXVI. Every Penalty or Forfeiture imposed by this or the special Act, or by any Byelaw made in pursuance thereof, the Recovery of which is not otherwise provided for, may be recovered by summary Proceedings before Two Justices; and on Complaint being made to any Justice he shall issue a Summons requiring the Party complained against to appear before Two Justices at a Time and Place to be named in such Summons; and every such Summons shall be served on the Party offending either in Person or by leaving the same with some Inmate at his usual Place of Abode; and upon the Appearance of the Party complained against, or in his Absence, after Proof of the due Service of such Summons, it shall be lawful for any Two Justices to proceed to the hearing of the Complaint, and that although no Information in Writing or in Print shall have been exhibited before them; and upon Proof of the offence, either by the Confession of the Party complained against, or upon the Oath of One credible Witness or more, it shall be lawful for such Justices to convict the Offender, and upon such Conviction to adjudge the Offender to pay the Penalty or Forfeiture incurred, as well as such Costs attending the Conviction as such Justices shall think fit.

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8 *Vic. c. 18.*
Penalties to be
summarily recovered
before Two
Justices.

CXXXVII. If, forthwith upon any such Adjudication as aforesaid, the Amount of the Penalty or Forfeiture, and of such Costs as aforesaid, be not paid, the Amount of such Penalty and Costs shall be levied by Distress, and such Justices or either of them shall issue their or his Warrant of Distress accordingly.

Penalties to be
levied by
Distress.

CXXXVIII. Where in this or the special Act, or any Act incorporated therewith, any Sum of Money, whether in the Nature of Penalty, Costs, or otherwise, is directed to be levied by Distress, such Sum of Money shall be levied by Distress and Sale of the Goods and Chattels of the Party liable to pay the same; and the Overplus arising from the Sale of such Goods and Chattels, after satisfying such Sum of Money, and the Expenses of the Distress and Sale, shall be returned, on Demand, to the Party whose Goods shall have been distrained.

Distress how to
be levied.

CXXXIX. The Justices by whom any such Penalty or Forfeiture shall be imposed may, where the Application thereof is not otherwise provided for, award not more than One Half thereof to the Informer, and shall award the Remainder to the Overseers of the Poor of the Parish in which the Offence shall have been committed, to be applied in aid of the Poor's Rate of such Parish, or if the Place wherein the Offence shall have been committed shall be extra-parochial, then such

Application of
Penalties.

Wash-houses Amendment Act, see section 4, page 214, Appendix, and the Labouring Classes Lodging Houses Act, see ante, Appendix, page 231, section 34, but it will be observed by section 23 of the Baths and wash-houses Act, ante, page 205, Appendix, and by section 33 of the Labouring Classes Lodging Houses Act, ante, page 230, Appendix, the provisions for the recovery of penalties in the Companies' Clauses Consolidation Act are incorporated with both those Acts.

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No. 6. Justices shall direct such Remainder to be applied in aid of the Poor's
 8 Vic. c. 18. Rate of such extra-parochial Place, or if there shall not be any Poor's Rate therein, in aid of the Poor's Rate of any adjoining Parish or District.

Distress against the Treasurer.

CXL. If any such Sum shall be payable by the Promoters of the Undertaking, and if sufficient Goods of the said Promoters cannot be found whereon to levy the same, it may, if the Amount thereof do not exceed Twenty Pounds, be recovered by Distress of the Goods of the Treasurer of the said Promoters, and the Justices aforesaid, or either of them, on Application, shall issue their or his Warrant accordingly; but no such Distress shall issue against the Goods of such Treasurer unless Seven Days previous Notice in Writing, stating the Amount so due, and demanding Payment thereof, have been given to such Treasurer, or left at his Residence; and if such Treasurer pay any Money under such Distress as aforesaid he may retain the Amount so paid by him, and all Costs and Expenses occasioned thereby, out of any Money belonging to the Promoters of the Undertaking coming into his Custody or Control, or he may sue them for the same.

Distress not unlawful for Want of Form.

CXLI. No Distress levied by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser *ab initio* on account of any Irregularity afterwards committed by him, but all Persons aggrieved by such Defect or Irregularity may recover full Satisfaction for the special Damage in an Action upon the Case.

Penalties to be sued for within Six Months.

CXLII. No Person shall be liable to the Payment of any Penalty or Forfeiture imposed by virtue of this or the special Act, or any Act incorporated therewith, for any Offence made cognizable before a Justice, unless the Complaint respecting such Offence shall have been made before such Justice within Six Months next after the Commission of such Offence.

Penalty on Witnesses making default.

CXLIII. It shall be lawful for any Justice to summon any Person to appear before him as a Witness in any Matter in which such Justice shall have Jurisdiction under the Provisions of this or the special Act at a Time and Place mentioned in such Summons, and to administer to him an Oath to testify the Truth in such Matter; and if any Person so summoned shall, without reasonable Excuse, refuse or neglect to appear at the Time and Place appointed for that Purpose, having been paid or tendered a reasonable Sum for his Expenses, or if any Person appearing shall refuse to be examined upon Oath or to give Evidence before such Justice, every such Person shall forfeit a Sum not exceeding Five Pounds for every such Offence.

CXLIV. The Justices before whom any Person shall be convicted of any Offence against this or the special Act, or any Act incorporated therewith, may cause the Conviction to be drawn up according to the Form in the Schedule (C.) to this Act annexed.

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8 *Vic. c. 18.*
Form of Con-
viction.

CXLV. No Proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for Want of Form, nor shall the same be removed by Certiorari or otherwise into any of the Superior Courts.

Proceedings not
to be quashed for
Want of Form.

CXLVI. If any Party shall feel aggrieved by any Determination or Adjudication of any Justice with respect to any Penalty or Forfeiture under the Provisions of this or the special Act, or any Act incorporated therewith, such Party may appeal to the General Quarter Sessions for the County or Place in which the Cause of Appeal shall have arisen; but no such Appeal shall be entertained unless it be made within Four Months next after the making of such Determination or Adjudication, nor unless Ten Days Notice in Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal shall be brought, nor unless the Appellant forthwith after such Notice enter into Recognizances, with Two sufficient Sureties, before a Justice, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

Parties allowed
to appeal to
Quarter Sessions
on giving Se-
curity.

CXLVII. At the Quarter Sessions for which such Notice shall be given the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to the following Sessions; and upon the hearing of such Appeal the Court may, if they think fit, mitigate any Penalty or Forfeiture, or they may confirm or quash the Adjudication, and order any Money paid by the Appellant, or levied by Distress upon his Goods, to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable; and they may make such Order concerning the Costs, both of the Adjudication and of the Appeal, as they may think reasonable.

Court to make
such Order as
they think rea-
sonable.

CXLVIII. Provided always, and be it enacted, That, notwithstanding anything herein or in the special Act, or any Act incorporated therewith, contained, every Penalty or Forfeiture imposed by this or the special Act or any Act incorporated therewith, or by any Byelaw in pursuance thereof, in respect of any Offence which shall take place within the Metropolitan Police District, shall be recovered, enforced, accounted for, and, except where the Application thereof is otherwise specially provided for, shall be paid to the Receiver of the Metropolitan Police District, and shall be applied in the same Manner as Penalties or Forfeitures, other than Fines upon drunken Persons, or upon Constables for Misconduct, or for Assaults upon Police Constables, are directed to be recovered, enforced, accounted for, paid, and applied by

Receiver of the
Metropolitan
Police District to
receive Penalties
incurred within
his District.

Appendix
No. 6.
8 Vic. c. 18.
2 & 3 Vict. c. 71.

an Act passed in the Third Year of the Reign of Her present Majesty, intituled *An Act for regulating the Police Courts in the Metropolis*, and every Order or Conviction of any of the Police Magistrates in respect of any such Forfeiture or Penalty shall be subject to the like Appeal and upon the same Terms as is provided in respect of any Order or Conviction of any of the said Police Magistrates by the said last-mentioned Act; and every Magistrate by whom any Order or Conviction shall have been made shall have the same Power of binding over the Witnesses who shall have been examined, and such Witnesses shall be entitled to the same Allowance of Expenses, as he or they would have had or been entitled to in case the Order, Conviction, and Appeal had been made in pursuance of the Provisions of the said last-mentioned Act.

Persons giving
false Evidence
liable to Penalties
of Perjury.

CXLIX. And be it enacted, That any Person who upon any Examination upon Oath under the Provisions of this or the special Act, or any Act incorporated therewith, shall wilfully and corruptly give false Evidence, shall be liable to the Penalties of wilful and corrupt Perjury.

*Access to
special Act.*

And with respect to the Provisions to be made for affording Access to the special Act by all Parties interested, be it enacted as follows :

Copies of special
Act to be kept
and deposited,
and allowed to be
inspected.

CL. The Company shall, at all Times after the Expiration of Six Months after the passing of the special Act, keep in their principal Office of Business a Copy of the special Act, printed by the Printers to Her Majesty, or some of them; and where the Undertaking shall be a Railway, Canal, or other like Undertaking, the Works of which shall not be confined to One Town or Place, shall also within the Space of such Six Months deposit in the Office of each of the Clerks of the Peace of the several Counties into which the Works shall extend a Copy of such special Act so printed as aforesaid; and the said Clerks of the Peace shall receive, and they and the Company respectively shall retain, the said Copies of the special Act, and shall permit all Persons interested to inspect the same, and make Extracts or Copies therefrom, in the like Manner, and upon the like Terms, and under the like Penalty for Default, as is provided in the Case of certain Plans and Sections by an Act passed in the First Year of the Reign of Her present Majesty, intituled *An Act to compel Clerks of the Peace for Counties and other Persons to take the Custody of such Documents as shall be directed to be deposited with them under the Standing Orders of either House of Parliament.* (a.)

W. 4 and 1 Vict.
c. 83.

Penalty on Com-
pany failing to
keep or deposit.

CLI. If the Company shall fail to keep or deposit, as herein-before mentioned, any of the said Copies of the special Act, they shall for-

(a.) The time for Inspection is "all reasonable hours of the day;" the charges are 1s. for every inspection and 1s. for every hour after the first, and 6d. for every 100 words copied. The Penalty is, not exceeding £5, recoverable with Costs before a Justice and payable to the Complainant.

Appendix No. 6.

**Act not to extend
to Scotland.**

amended this Session.

SCHEDULE (A.)

and C. D. of Two Trustees appointed to

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Appendix
No. 6.
8 Vic. c. 18.

Act], do hereby convey to the said Company [*or other Description*], their Successors and Assigns, all [*describing the Premises to be conveyed*], together with all Ways, Rights, and Appurtenances thereunto belonging, and all my Estate, Right, Title, and Interest in and to the same and every Part thereof, to hold the said Premises to the said Company [*or other Description*], their Successors and Assigns, for ever, according to the true Intent and Meaning of the said Act, they the said Company [*or other Description*], their Successors and Assigns, yielding and paying unto me, my Heirs and Assigns, One clear yearly Rent of _____ by equal quarterly [*or half-yearly, as agreed upon*], Portions henceforth on the [*stating the Days*], clear of all Taxes and Deductions. In witness whereof I hereunto set my Hand and Seal, the _____ Day of _____ in the Year of our Lord _____

SCHEDULE (C.)

Form of Conviction.

to wit.

BE it remembered, That on the _____ Day of _____ in the Year of our Lord _____ *A.B.* is convicted before us *C.D.*, Two of Her Majesty's Justices of the Peace for the County of _____ [*here describes the Offence generally, and the Time and Place when and where committed*], contrary to the [*here name the special Act*]. Given under our Hands and Seals, the Day and Year first above written.

C. D.

APPENDIX.

No. 7.

BYE-LAWS FOR REGULATING HIRED CHAIRS AND HACKNEY CARRIAGES.

In pursuance of the powers conferred on the Commissioners by the 79th section of the Cheltenham Improvement Act, page 110, and the 68th section of the Town Police Clauses Act, incorporated by such 79th section, page 118, the Commissioners have, according to the regulations contained in the 25th section of the Local Act, page 39, made and published the following

BYE-LAWS FOR REGULATING HIRED CHAIRS AND HACKNEY CARRIAGES, MADE AT A SPECIAL MEETING OF THE COMMISSIONERS HELD AT THE PUBLIC OFFICES, CHELTENHAM, ON TUESDAY, THE THIRD DAY OF MAY, 1853, AND CONFIRMED BY THE RIGHT HONOURABLE THE LORD PALMERSTON, ONE OF HER MAJESTY'S PRINCIPAL SECRETARIES OF STATE, ON THE 17TH OF JUNE, 1853.

CHELTENHAM IMPROVEMENT ACT, 1852.

INDEX TO BYE-LAWS.

For Regulating "Chairs" and "Carriages," and References to the Provisions of the "Police Clauses Act," and the "Cheltenham Improvement Act."

1. Definitions

BYE-LAWS AS TO "CHAIRS" AND "CHAIRMEN."

2. Extreme Distance for Chairs.
3. Fares for Chairs
4. Remuneration to Chairmen called but not employed
5. Stands for Chairs
6. Number of Chair and names of Chairmen to be displayed
7. Hand Flys not to go on foot paths
8. Chairmen to keep on outer edge of Footpath, and not to require
Foot Passengers to give way
9. Chairmen when waiting to keep on carriage-way
10. At crossings, Chairmen to give way to foot passengers
11. Sedan chairs and hand flys to be lighted
12. Poles of sedan Chairs to be taken out

BYE-LAWS FOR "CARRIAGES."

13. Extreme distance for carriages
14. Fares for distance and time
15. Remuneration to drivers hired for time and discharged at certain
distances
16. Luggage
17. Remuneration to drivers called but not employed
18. Stands for carriages and the number allowed at one time
19. Proprietor's names and number of carriage to be displayed
20. Number of persons to be carried

Appendix
No. 7.

By the Act.—Penalty for not having the number of persons to be carried painted on the carriage, (sec. 51, page 114) and refusal to carry that number or a less number, Forty Shillings (sec. 52, page 114).

21. Equipments and appointments of carriages; drag-chains, lamps, check-string, horse harness
22. Driver to keep lamps lighted and check-string in his hand
23. Drivers not to loiter
24. Not to drive faster than a trot
25. Not to feed horse except by a nose bag
26. Restriction on use of carriages in which coffins have been carried

BYE-LAWS COMMON TO BOTH "CHAIRS" AND "CARRIAGES."

As to Licences.

27. Applicants to produce certificate of the condition of the chair or carriage

By the Act.—Applicants for Licences must sign a requisition, truly stating the name, &c., of the proprietor of the "carriage" or "chair," &c., according to the prescribed form, under £10 penalty (sec. 40, page 111).

The Register of Licences kept by the Commissioners may be inspected gratis (sec. 42, page 112).

Proprietors, on change of the abode of themselves or the drivers or chairmen, are to give notice thereof to the Commissioners within seven days, under a penalty of Forty Shillings (sec. 44, page 112).

Proprietor of a carriage or chair permitting the same to be used without licence, or to be driven or drawn by person not named in the licence as driver or chairman, except in the case of his illness or unavoidable absence,—penalty, Forty Shillings (sec. 45, page 113).

Upon a second conviction of the proprietor, chairman or driver, for any offence, the licence may be suspended or revoked (sec. 50, page 113).

As to Fares.

28. Detention money

By the Act.—Drivers and chairmen taken to a place and required to wait, may demand their fare to that place, and a deposit of the fare for the time of waiting; Forty Shillings penalty for refusing to wait after such deposit (sec. 57, page 115).

29. Children how charged for

By the Act.—Fares due may be recovered before magistrates (sec. 66, page 118). Overcharges for fares are recoverable

by the hirer, with costs and Forty shillings penalty for such exaction (sec. 58, page 116), and agreements to pay more than the fare are not binding (sec. 55, page 115).

Penalty of Forty Shillings on proprietor or driver exacting for a job more than the sum agreed for, though less than the legal fare (sec. 54, page 114).

Forty Shillings penalty on a driver or chairman having agreed to go a distance in his discretion overcharging the party (sec. 56, page 115).

30. As to measurement of distances

31. Computation of Fares for distance

32. Disputed distances measured by the Surveyor

As to Stands.

33. The chairmen and drivers are not to ply at other places

34. The chair or carriage standing first in the rank to be entitled to first fare

35. At places of public resort, chairs and carriages to be under the police authorities

By the Act.—Penalty on driver or chairman leaving his chair or carriage in street, &c., without some one to take care of it, Twenty Shillings, and the carriage or chair may be taken away by the police, and, in default of payment, sold (sec. 62, page 117).

Penalty on the driver or chairman on a stand refusing to go to a place within the prescribed distance, Forty Shillings (sec. 53, page 114).

36. Chairman or driver to attend punctually

37. Chair or carriage not to stand on crossing

By the Act.—Penalty on driver and chairman standing his carriage or chair across a street, or not giving way, or hindering others in taking up or setting down, or forcibly obstructing others from being hired, Twenty Shillings (sec. 64, page 117).

38. Chairman or driver misconducting themselves

By the Act.—No person, whether licensed or not, is to drive or draw a chair or carriage without the proprietor's consent, nor to suffer another person to do so, under a penalty of Forty Shillings (sec. 60, page 116).

Penalty on proprietor, driver, or chairman permitting strangers to be carried without consent of the hirer, Twenty Shillings (sec. 59, page 116).

Penalty (and in default of payment, two months' imprisonment,) on driver or chairman being intoxicated while driving, or by furious driving, or other misconduct, injuring or endangering person or property, and damages may be recovered from the proprietor £5 (sec. 61, page 116).

Appendix
*No. 7.**Generally.*

39. Chairmen and drivers to be respectful
40. Inspector of nuisances to inspect chairs and carriages
41. Proprietor not to use chair or carriage in an unfit state
42. Property left in carriage or chair to be restored
43. Book of Bye-laws to be produced

By the Act.—Compensation may be awarded to driver or chairman who attends before a magistrate on an unfounded charge (sec. 65, page 118).

Willfully injuring chair or carriage, £5 penalty, and compensation to proprietor (sec. 67, page 118).

N.B.—By Section 79 of the “Cheltenham Improvement Act,” page 110, the term “Hackney Carriages,” in the “Police Clauses’ Act,” is to include sedan chairs, wheel chairs, and fly chairs drawn by men, and the word “Driver” is to include the word “Chairman,” and the word “drive” is to include the word “draw.” Section 41 of the “Police Clauses’ Act,” page 112, is amended, to the effect that the name, place, and abode of the driver shall be stated in the licence. Section 44, page 112, also is amended, to the effect that notice shall be given of change of abode of the driver. Section 45, page 113, also is amended, to the effect that the proprietor shall not permit the chair or carriage to be drawn or attended by any other person than the person named in the licence, except in case of illness or absence from some unavoidable cause, but it is not necessary to obtain a licence for a driver. Sections 51 and 52, page 114, are not to extend to hired chairs. By Section 81 of the “Cheltenham Improvement Act,” page 119, the provisions thereof (incorporated or otherwise,) are not to extend to any private chairs or carriages; and by Section 82, page 120, all fines and forfeitures are to go to the Borough Fund, except overcharges for fares, which may be ordered to be paid to the parties aggrieved.

BYE-LAWS, &c.

1.—*Definition.*—In these Bye-Laws, the terms “Hired Chairs” and “Hackney Carriages” mean “Chairs” and “Carriages” standing or plying for hire in the streets of the Borough of Cheltenham, and the term “CHAIRS” relates and is to extend to such Chairs, whether Sedan Chairs, Wheel Chairs, Hand Fly Chairs, (heretofore known as Fly Carriages drawn by men,) or the like, and whether carried or drawn by one or two men; and the term “CARRIAGES” relates and is to extend to such Hackney Carriages, whether Coaches, Flies, Carts, Gigs, or the like, and whether drawn by one or more horses, ponies, mules, or donkeys; and the terms “Proprietors,” “Drivers,” or

“Chairmen,” relate to such “Carriages” and “Chairs;” and the word “Street” is to include lane, alley, road, square, or other public passage or place in the Borough, unless such meanings be repugnant to the context; and the penalties hereby imposed attach to every offence unless it be otherwise stated.

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No. 7.

CHAIRS.

2.—*Extreme Distance for Chairs.*—The distance fixed by order of the Commissioners within which Chairs shall be compellable to go with fares, is two miles from the General Post Office, Cheltenham.

3.—*Fares for Chairs.*—The several fares for distance and time, respectively, hereinafter set forth, and no higher fares, shall be demanded or taken.

SEDAN CHAIRS.

For carrying One Person.

Fares for Distance.

The fare for any distance not exceeding a quarter of a mile, or 440 yards, shall be	s. d.
And for every quarter of a mile commenced beyond the first quarter of a mile	0 6

Fares for Time.

The fare for any time not exceeding one hour shall be	2 6
And for every half hour commenced after the first hour	1 3

WHEEL CHAIRS.

For carrying One Person.

Fares for Distance.

The fare for any distance not exceeding one quarter of a mile, or 440 yards, shall be	0 6
Beyond a quarter of a mile, and not exceeding half a mile ..	0 9
Beyond half a mile, and not exceeding three quarters of a mile	1 0
Beyond three quarters of a mile, and not exceeding one mile	1 6
Beyond a mile, and not exceeding a mile and a half	2 0
Beyond a mile and a half, and not exceeding two miles	2 6

Fares for Time.

The fare for any time not exceeding one hour, shall be	1 6
And for every half hour commenced after the first hour	0 9

HAND-FLY CHAIRS.

Fares for Distance.

The fare for carrying one person any distance shall be the same as above mentioned in reference to Sedan Chairs hired for distance.

And for carrying two or more persons any distance, the fare shall be one half more than for carrying one person the same distance.

Fares for Time.

The fare for any time and for carrying one person shall be the same as above mentioned in reference to Sedan Chairs hired for time.

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	<i>s. d.</i>
The fare for the first hour, and for carrying two or more persons shall be	3 0
And for every half hour commenced after the first hour, and for carrying two or more persons	1 6

4.—*Remuneration to Chairmen Called but not Employed.*—When a Chairman is called to take up a fare, and proceeds with his Chair to the place directed, and is then sent away without such fare, every such Chairman shall be entitled to receive Sixpence, if he came a distance not exceeding one quarter of a mile from the nearest stand, or One Shilling, if such distance were more than a quarter of a mile, and in case he be detained longer than ten minutes he shall be entitled to receive Sixpence for every quarter of an hour commenced after the expiration of the first ten minutes.

5.—*Stands for Chairs.*—The Stands for Chairs shall be at the places under mentioned, and not more than the number of Chairs set opposite the names of such stands shall at any one time be placed upon any of the Stands.

<i>No.</i>	<i>Chairs.</i>
1. The south side of the High Street, near St. George's Square ..	4
2. The south side of the High Street, opposite the Grammar School	4
3. The north side of the High Street, at the entrance to the Arcade	3
4. The south side of the High Street, at the entrance to Clarence Street	4
5. The north front of No. 1, Promenade, Clarence Street	3
6. Bedford Buildings, at the entrance to St. George's Place	4
7. The north side of the High Street, at the entrance to America Passage, or as near thereto as conveniently may be	4
8. The south side of the High Street, near the Plough Hotel....	4
9. The south side of the High Street, opposite the Assembly Rooms	4
10. Each corner of Cambray Place in Cambray Place, near the High Street.....	4
11. The east corner of Bath Street, near the Theatre	4
12. The east side of Grosvenor Street, near Highbury Chapel	4
13. At or near the north-west corner of Imperial Square, adjoining the Promenade	4
14. The High Street, near to the entrance to Priory Street	4
15. The west side of the Bath Road, opposite the gate, and at the north side of the opening leading to Montpellier Terrace ..	4
16. Near the gate leading from the Old Wells to Montpellier Spa	4
17. Opposite the Montpellier Gate, at the corner leading to Lansdown	4
18. The south-east corner of Suffolk Square, opposite the road leading to Park Place	3

No.	Chairs.	Appendix No. 7.
19. The south-west corner of Portland Street, near the Masonic Hall.....	4	
20. The west side of the Evesham Road, opposite Blenheim House	4	
21. The west side of the Prestbury Road, at the entrance to Pittville, at or near Alwington Villa	3	
22. The north-west side of Winchcomb Street, near the Pittville Gates	4	
23. At or near the north-west corner of the Promenade, in Clarence Street	3	
24. At or near the east corner of Imperial Square north	4	
25. The west side of the Old Well Lane, at or near the foot entrance to the Well Walk, opposite the entrance to the Montpellier.....	3	
26. The south side of the Lansdown Road, opposite the Lansdown Hotel	4	
27. The south side of the High Street, opposite the Belle Vue Buildings	3	

6.—*Number of Chair and Names of Chairman to be Displayed.*—Every Chair shall be numbered with a number corresponding to the number of the license of such Chair, and such number and the name of the Chairman or Chairmen licensed thereto, shall always be kept painted thereon, of a colour different from and in strong contrast with the colour of the ground of such Chair, in a proper and conspicuous manner, to the satisfaction of the Inspector of Nuisances. Any person offending, either by using or working a Chair not so numbered and named as aforesaid, shall forfeit a sum not exceeding Ten Shillings.

7.—*Hand-Fly Chairs not to go on Footpaths.*—No Hand-Fly Chair shall be permitted to stand or be drawn along or over any of the footpaths within the Borough, with or without a fare. Any Chairman offending contrary thereto shall forfeit a sum not exceeding Ten Shillings.

8.—*Chairmen to keep on outer edge of Footpath.*—No Chairman shall carry or wheel a Sedan or Wheel Chair upon any of the footpaths within the Borough, when without a fare in such Chair. And the Chairman shall, when working any Chair with a fare, at all times keep the Chair on the outer edge of the footpath, and on the side nearest the carriage road, (if any,) and also shall at all times allow sufficient room for foot passengers, so as not to obstruct their free and uninterrupted passage along the footpath. And the Chairman is on all occasions to study the convenience of foot passengers, and not to demand of the foot passengers to make or give way, but to wait a reasonable time till the passage is clear. Any person offending contrary hereto shall forfeit a sum not exceeding Ten Shillings.

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No. 7.

9.—*Chairman when waiting to keep on Carriage Way.*—Every Chairman shall at all times, while waiting for a fare, keep his Chair on the carriage-way, (if any,) and not on the footpaths. Any person offending contrary hereto shall forfeit a sum not exceeding Ten Shillings.

10.—*At crossings Chairmen to give way to Foot Passengers.*—At all crossings the Chairman is to draw aside and give up the same to foot passengers. Any person offending contrary hereto shall forfeit a sum not exceeding Ten Shillings.

11.—*Sedan Chairs and Hand Fly Chairs to be Lighted.*—Every Chairman when using his Chair between half an hour after sunset and half an hour before sunrise, shall have in case of a Sedan Chair a lantern in front, and in case of a Hand Fly Chair two lamps affixed thereto, approved of by the Inspector of Nuisances, properly lighted. Every person offending contrary hereto shall forfeit a sum not exceeding Ten Shillings.

12.—*Poles of Sedan Chair to be taken out.*—The poles of every Sedan Chair, while on any stand, or waiting with or for a fare, shall be taken and remain out. Every Chairman offending contrary hereto shall forfeit a sum not exceeding Ten Shillings.

CARRIAGES.

13.—*Extreme Distance for Carriages.*—The distance fixed by order of the Commissioners, within which Carriages shall be compellable to go with fares, is five miles from the General Post Office, Cheltenham.

14.—*Fares.*—The several fares for distance and time respectively, hereinafter set forth, and no higher fares shall be demanded or taken.

CARRIAGES DRAWN BY ONE HORSE ONLY.

Fares for Distance.

The fare for carrying one or two persons any distance not exceeding one mile shall be	s. d. 1 0
For carrying three or more persons the same distance.....	1 6
For carrying one, two, or three persons more than one mile, and not exceeding a mile and a half	1 6
For carrying more persons than three the same distance.....	2 0
For carrying one, two, or three persons more than one mile and a half, and not exceeding two miles	2 0
For carrying more than three persons the same distance.....	2 6
And for every half mile commenced beyond two miles, and for carrying one or more persons	0 6

Fares for Time.

The fare for any time not exceeding one hour, and for carrying one or more persons, shall be	2 6
And for every half hour commenced after the first hour, and for carrying one or more persons	1 0

AS TO PONY OR DONKEY CARTS OR GIGS.

The fares shall be one-third less than the fares appointed for Flys and other Carriages drawn by one horse only.

AS TO CARRIAGES DRAWN BY MORE THAN ONE HORSE.

Fares for Distance.

The fare for carrying one or more persons any distance not exceeding one mile, shall be	s.	d.
For carrying one or more persons any distance exceeding one mile, and not exceeding one mile and a half	1	6
For carrying one or more persons any distance exceeding one mile and a half, and not exceeding two miles	2	3
And for every half mile commenced beyond two miles, and for carrying one or more persons	3	3
	0	6

Fares for Time.

The fare for any time not exceeding one hour, and for carrying one or more persons, shall be.....	4	0
And for every half hour commenced after the first hour, and for carrying one or more persons	1	6

Between the hours of one and six in the morning, all the fares above set forth shall be increased one-half more than those fares.

15.—*Remuneration to Drivers hired for Time and Discharged at certain Distances.*—The Driver of any Carriage hired for time and discharged at a distance exceeding two miles from the centre stone of Cheltenham, at the entrance to the Arcade, shall be entitled to half fare according to the distance from the place where he was discharged to the nearest stand, in addition to his fare for time.

16.—*Luggage.*—The Driver of a Carriage may be required to carry therein or thereon, with one or more passengers, any quantity of luggage not exceeding 56lb weight, without any charge for the same in addition to the fare; and no further charge shall be made for any additional luggage, unless the Driver makes a claim for it at the time of the hiring.

17. *Remuneration to Drivers called but not employed.*—When any Driver of a Hackney Carriage is called to take up a fare and proceeds with his Carriage to the place directed, but is sent away without a fare, he shall be entitled to receive from the person calling or engaging him the sum of One Shilling, and in case of his having been detained longer than ten minutes, he shall also be entitled to receive Sixpence for every quarter of an hour commenced after the expiration of the first ten minutes.

18.—*Stands for Carriages.*—The Stands for Carriages shall be at the places under-mentioned, and no more than the number of Carriages set opposite the names of such Stands shall at any one time be upon such Stands.

Appendix
*No 7.**No.**Carriages.*

1. The north side of the High Street, opposite Berkely Place... 6
2. The east side of the Bath Road, opposite Birdlip House 4
3. The entrance to the Old Well, near the Bridge 3
4. Near the Masonic Hall, in Portland Street 3
5. The west side of Winchcomb Street, near the Anchor Brewery 3
6. The north side of Commercial Road, opposite Andover Place 3
7. The south side of Montpellier Terrace, at the corner of Suffolk Parade..... 3
8. The west side of the Bath Road, near Brunswick Terrace 3
9. The west side of the Old Well Lane, near the entrance of Montpellier Spa Buildings 3
10. The east side of the road opposite Rodney Place 4
11. The south side of Clarence Street, between Promenade Place and Bedford Buildings 3
12. The east side of the Bath Road, near Thirlestaine House 4
13. The south-east side of Winchcomb Street opposite Pittville Gate 3
14. The south side of Albion Street, about seventy yards westward of the entrance to Grosvenor Street, late Gyde's Terrace.. 3
15. The east side of the Evesham Road, opposite Cleveland House 3
16. The north side of the road, opposite Trafalgar Place 2
17. The south side of the High Street, opposite Keynsham Bank, near the carriage-road leading across Sandford Fields 4
18. The south-east corner of Sandford Place, in the Commercial Road 2
19. The south side of the Imperial Square, midway between the east and west roads, on the south side of the said road.... 3
20. The south side of the Lansdown Road, opposite to No. 2, Lansdown Place 3
21. The south side of the Lansdown Road, opposite the Lansdown Hotel..... 3

19.—*Name of Proprietor and Number of Carriage to be displayed.*—The name or names of the Proprietor, or persons licensed to the Carriage, shall be painted thereon in a proper and conspicuous manner, to the satisfaction of the Inspector of Nuisances; and also the number of the licence of every such carriage shall be properly and conspicuously painted on the side or panel of such carriage, in figures not less than three inches in length, and of a proportionate breadth, and of a colour different from and in strong contrast with the ground colour of such carriage, to the satisfaction of the Inspector of Nuisances. The proprietor of a Hackney Carriage permitting the same to be used without having his name and the number of such carriage painted thereon as aforesaid, shall forfeit a sum not exceeding Forty Shillings.

20.—*Number of Persons to be Carried.*—No Carriage drawn by two horses shall carry more than eight persons, and no Carriage drawn by

one horse shall carry more than six persons ; no Carriage, Cart, or Gig, drawn by two ponies or donkeys, shall carry more than six persons ; and no Carriage, Cart, or Gig, drawn by one pony or donkey, shall carry more than three persons, including in each case the Driver. The Proprietor or Driver of a Carriage offending contrary hereto shall forfeit not exceeding Ten Shillings.

21.—*Equipments and Appointments of Carriages.*—The Proprietor of a Carriage shall have a proper and sufficient drag-chain and slipper, and lamps approved of by the Inspector of Nuisances, and if it be a close carriage, also a check-string properly communicating from the inside of such carriage with the driver thereof. And the horse or other animal drawing a carriage shall be in good condition, quiet, and tractable, and the harness and equipments of such horse or animal shall be strong, clean, and complete. Any Proprietor offending contrary hereto, shall forfeit a sum not exceeding Ten Shillings.

22.—*Driver to keep Lamps Lighted and Check-strings in his hand.*—The Driver using a Carriage shall keep the lamps thereof properly lighted between half-an-hour after sunset and half-an-hour before sunrise ; and also at all times when driving a person, hold the check-string in his hand or have it attached to his arm, so that the same may be conveniently used by such person. Any Driver offending contrary hereto shall forfeit a sum not exceeding Ten Shillings.

23.—*Drivers not to Loiter.*—The Driver of a Hackney Carriage, who loiters with his carriage in any of the streets within the Borough, shall forfeit a sum not exceeding Ten Shillings.

24.—*Not to Drive faster than a Trot.*—Any Driver who drives the horse or animal drawing his carriage at a faster pace than a trot, shall forfeit a sum not exceeding Ten Shillings.

25.—*Not to feed a Horse except by a Nose-bag.*—Any Driver who feeds the horse or animal drawing his carriage in the street, except by means of a nose-bag or otherwise, so as to prevent litter, shall forfeit a sum not exceeding Ten Shillings.

26.—*Restriction on use of Carriages in which Coffins have been carried.*—No carriage in which a coffin has been carried shall be used for hire within the limits of the Borough, for seven clear days after such coffin was carried therein. For every offence contrary hereto the Driver as well as the Proprietor of a Carriage so used shall forfeit a sum not exceeding Ten Shillings.

BYE-LAWS APPLICABLE TO CHAIRS AND CARRIAGES.

AS TO LICENCES.

27.—*Applicants to Produce Certificates of the Condition of the Chair or Carriage.*—No person will be licensed to a Chair or Carriage who

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No. 7.

does not produce a certificate from the Inspector of Nuisances that his Chair or Carriage is properly numbered, and that the same, with the equipments thereof, is sufficient, clean, and in good order; and, in the event of a new application, he shall also produce in writing a recommendation and a certificate of sobriety and good conduct from two respectable householders, not being publicans, to the satisfaction of the Commissioners.

28.—*Fare for Detention.*—When a Chair or Carriage is hired for distance, the same may be detained in waiting to take up the fare ten minutes without any extra charge; but, for an additional time not exceeding a quarter of an hour, an extra shilling shall be paid in case of a Carriage, and in case of a Chair an additional sixpence, and the same for Carriage or Chair for every succeeding quarter of an hour commenced after the first quarter of an hour.

29.—*Children how Charged.*—No charge shall be made for any child under three years of age, borne in the lap or arms of a person carried in a Carriage or Chair, and two children under ten years of age each, shall be considered as one person.

30.—*Distances, Measurement of.*—Distances are to be measured by the nearest means of access proper for Chairs and Carriages respectively.

31.—*Computation of Fares for Distance.*—Every fare for distance shall be computed from the stand or place from whence any Chair or Carriage is called, unless such Chair or Carriage is called or ordered at, or from the residence, stable, or yard of the person licensed thereto, or of the chairman or driver thereof, in which case the distance shall be computed from the stand nearest to the place where the fare is taken up.

32.—*Disputed Distances to be Measured by the Surveyor.*—The Commissioners' Surveyor shall, at the request of any person charged with any fare, measure or cause to be measured any distance in dispute between him and the Chairman or Driver, the expense of which shall be paid by the Chairman or Driver, or the person or persons licensed to the Chair or Carriage, if the distance be found to be less than he or they have charged and if more, by the person or persons charged with such fare and in addition thereto.

AS TO STANDS.

33.—*Chairmen and Drivers not to ply at other places than Stands.*—Every Chairman or Driver standing or plying with his Chair or Carriage at any other place than one of the appointed Stands, or placing or driving his chair or carriage on a stand already occupied by the allowed number of chairs or carriages, shall forfeit a sum not exceeding Ten Shillings.

(a.) 34.—*The Chair or Carriage standing first in the rank to be entitled to first fare.*—At all stands and public places and places of resort or amusement, the carriage or chair standing first in the rank shall be entitled to take the first fare, unless such fare shall choose to walk to and take any other carriage or chair.

(a.) 35.—*At Places of Public Resort, Chairs and Carriages to be under the Police Authorities.*—At places of public resort or amusement, carriages and chairs may stand at proper times adjacent thereto, and the arrangement as to chairs or carriages standing, plying, taking up fares, waiting, coming and departing, shall be under the direction and management of the police constables acting in the Borough; and any Proprietor, Chairman, or Driver offending contrary thereto, shall forfeit a sum not exceeding Ten Shillings.

36.—*Chairmen or Drivers not attending punctually.*—Any Proprietor, Chairman, or Driver engaged to attend to take up a fare at any particular place at a specified time, who neglects or fails punctually so to do, shall forfeit a sum not exceeding Ten Shillings.

37.—*Chair or Carriage not to Stop at Crossing.*—Any Chairman or Driver who draws up or stops with his chair or carriage upon any foot-crossing within the Borough, except for the purpose of taking-up or setting down of fares, or during attendance at places of public resort or amusement, as allowed by the police constables, shall forfeit a sum not exceeding Ten Shillings.

38.—*Chairman Misconducting.*—Any Chairman or Driver demanding or taking a higher fare than he is entitled to, or using at any time, to any person whomsoever, any abusive, indecent, or insulting language, threat, or gesture, shall forfeit a sum not exceeding Ten Shillings.

39.—*Chairman and Drivers to be Respectful.*—Every Chairman or Driver shall at all times, when on duty, conduct himself in an orderly, peaceable, sober, and respectful manner, and be clean in every part of his dress and person, and every Chairman or Driver offending contrary hereto shall forfeit a sum not exceeding Ten Shillings.

40.—*Inspector of Nuisances to inspect Chairs and Carriages.*—It shall be lawful for the Inspector of Nuisances to inspect and examine every Chair and Carriage when standing for hire, and when not actually engaged with or going for a fare, and the state and condition thereof and every part thereof; and if any Proprietor, Chairman, or Driver obstruct, hinder, or interrupt the Surveyor in or about such inspection or examination, he shall forfeit a sum not exceeding Ten Shillings.

(a.) See the Powers given to the commissioners by the 21st and 22nd sections of the Town Police Clauses Act, incorporated by section 59 of the Local Act, page 73, to regulate routes, &c. for carriages, &c. at processions, places of public resort, &c. and in the neighbourhood of places of worship during divine service.

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No. 7.

41.—*Using Chair or Carriage in an Unfit State.*—If upon the inspection or examination of the Inspector of Nuisances, any Chair or Carriage is found not to be in a proper state and condition, the Proprietor, Chairman, or Driver using the same, shall forfeit for every time the same is used, a sum not exceeding Ten Shillings.

42.—*Property Left in Chairs or Carriages to be Restored.*—If any property of any kind be left in a Chair or Carriage, the Chairman or Driver thereof shall forthwith restore the same to the owner thereof, or take it within twenty-four hours after such property was so left, to the Office of the Police, and deposit the same with the Officer there on duty; every person offending contrary hereto shall forfeit a sum not exceeding the sum of Five Pounds.

43.—*Book of Bye Laws to be produced.*—A book of Bye-Laws made by the Commissioners respecting Chairs and Carriages, will on application be given to the Proprietors, Chairmen, and Driver of every Chair or Carriage. Every Chairman or Driver who does not produce such book of Bye-Laws entire and legible, when required by a person employing him, so to do, shall forfeit all right to receive a fare from such person, and also a sum not exceeding Ten Shillings.

JAMES AGG GARDNER,
FREDERICK MONRO,
Commissioners.

SEAL OF COMMISSIONERS.

I allow the foregoing Bye-Laws.

PALMERSTON,
One of Her Majesty's Principal Secretaries of State.

WHITEHALL,
17th June, 1853.

APPENDIX.

No. 8.

THE COMMON LODGING HOUSES ACT, 1853.

Since the Appendix, No. 2, page 216, ante, was in the Press, the Bill brought into the House of Lords, by the Earl of Shaftesbury, as mentioned in the Note, page 236, ante, has passed into an Act which materially extends the Provisions of "the Common Lodging Houses Act, 1851," and is as follows:

ANNO DECIMO SEXTO AND DECIMO SEPTIMO
VICTORIÆ REGINÆ.

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16 & 17 Vic.
c. 41.

CAP XLI.

AN ACT FOR MAKING FURTHER PROVISIONS WITH RESPECT TO
COMMON LODGING HOUSES. [4th August, 1853.]

WHEREAS it is expedient to extend the Provisions of "The Common Lodging Houses Act, 1851:" Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

I. This Act may be cited for any Purpose as "The Common Lodging Houses Act, 1853." Short Title.

II. The Common Lodging Houses Act, 1851, and this Act shall be construed and executed as if they were One Act. Recited Act and this Act to be as One.

III. After Three Months after the passing of this Act a Person shall not keep a Common Lodging House or receive a Lodger therein until the House have been inspected and approved for that Purpose by some Officer appointed in that Behalf by the local Authority, and have been registered as by the recited Act provided; and a Person shall not keep a Common Lodging House unless his Name as the Keeper thereof be entered in the Register kept under the recited Act: Provided always, that when the Person so registered dies, his Widow or any Member of his Family may keep the House as a Common Lodging House for not more than Four Weeks after his Death without being registered as the Keeper thereof. All Common Lodging Houses to be registered before being used, and to be kept only by registered Keepers.

IV. The local Authority may refuse to register as the Keeper of a Common Lodging House a Person who does not produce to the local Authority a Certificate of Character in such Form as the local Authority shall direct, signed by Three Inhabitant Householders of the Parish respectively rated to the Relief of the Poor of the Parish within which the Lodging House is situate for Property of the yearly rateable Value of Six Pounds or upwards. Local Authority may refuse to register House if Keepers do not produce Certificate of Character

V. A Copy of an Entry made in a Register kept under the recited Act, certified by the Person having the Charge of the Register to be a true Copy, shall be received in all Courts and before all Justices and on all Occasions whatsoever as Evidence, and be sufficient Proof of all Things therein registered, without Production of the Register or of any Document, Act, or Thing on which the Entry is founded; and every Person applying at a reasonable Time shall be furnished gratis by the Person having such Charge with a certified Copy of any such Entry. Evidence of Register.

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16 & 17 Vic.
c. 41.

Power to Local Authority to require an additional Supply of Water to Common Lodging Houses.

VI. Where it appears to the local Authority that a Common Lodging House is without a proper Supply of Water for the Use of the Lodgers, and that such a Supply can be furnished thereto at a reasonable Rate, the local Authority may by Notice in Writing require the Owner or Keeper of the Common Lodging House, within a Time specified therein, to obtain such Supply, and to do all Works necessary for that Purpose; and if the Notice be not complied with accordingly, the local Authority may remove the Common Lodging House from the Register until it be complied with.

As to Removal of Sick Persons from Common Lodging Houses to Hospitals, &c.

VII. When a Person in a Common Lodging House is ill of Fever or any infectious or contagious Disease the local Authority may cause such Person to be removed to an Hospital or Infirmary, with the Consent of the Authorities thereof, and on the Certificate of the Medical Officer of the Parish, Place, or District that the Disease is infectious or contagious, and that the Patient may be safely removed, and may, so far as the local Authority think requisite for preventing the Spread of Disease, cause any Clothes or Bedding used by such Person to be disinfected or destroyed, and may, if the local Authority think fit, award to the Owners of the Clothes and Bedding so disinfected or destroyed reasonable Compensation for the Injury or Destruction thereof, and such Compensation shall be paid to such Owners by the proper Officer of the Parish or Union in which the Common Lodging House is situate, out of the Rates applicable to the Relief of the Poor of such Parish, the Amount of such Compensation being first certified in Writing upon a List of such Articles.

Power to order Reports from Keepers of Common Lodging Houses kept for Beggars and Vagrants.

VIII. The Keeper of a Common Lodging House in which Beggars or Vagrants are received to lodge, or other Person having the Care or Management thereof, shall from Time to Time, if required by any Order of the local Authority served on such Keeper or Person, report to the local Authority, or to such Person or Persons as the said local Authority shall direct, every Person who resorted to such House during the preceding Day or Night, and for that Purpose Schedules shall be furnished by the local Authority to the Persons so ordered to report, which Schedules they shall fill up with the Information required, and transmit to the local Authority.

Power to Town Councils, &c. to remove Causes of Complaint certified under Nuisances removal, &c. Act.

IX. The Town Council, Trustees, Commissioners, Guardians, and other Officers and Boards specified in the First Section of the "Nuisances Removal and Diseases Prevention Act, 1848," shall, on the Receipt of a Certificate of any Police Constable or of any Officer appointed for the Inspection of Common Lodging Houses by the local Authority, stating the Existence in or about any Common Lodging House of any of the Causes of Complaint specified in that Section, take all such Proceedings as by that Section are required to be taken by the Town Council, Trustees, Commissioners, Guardians, and other

Officers and Boards specified therein on a Notice signed by Two Inhabitant Householders, and in like Manner as nearly as may be as if such Notice had been given; and the local Authority shall have the like Powers, and shall take all such Proceedings, on Receipt of any such Certificate of the Existence of any such Cause of Complaint, as the Town Council, Trustees, Commissioners, Guardians, and other Officers or Boards have and are empowered and required to take under the Provisions of that Act.

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No. 8.
16 & 17 Vic.
c. 41.

X. Provided always, notwithstanding any Provision contained in this Act, That within the City of *Oxford*, or the Parts within the Jurisdiction of the Commissioners for amending certain Mileways leading to *Oxford*, and making Improvements in the University and City of *Oxford*, the Suburbs thereof, and the adjoining Parish of *Saint Clement*, (which Commissioners are herein-after called the *Oxford Commissioners*.) the several Powers and Duties assigned by this Act to any local Authority shall, in so far as they are consistent with the Laws under which the said *Oxford Commissioners* act, be exercised by the said *Oxford Commissioners*; and within the Borough of *Cambridge*, or the Parts within the Jurisdiction of the Commissioners acting under an Act of the Thirty-fourth Year of the Reign of King *George* the Third, for amending and enlarging the Powers of a former Act of the same Reign, for the better paving, cleansing, and lighting the Town of *Cambridge*, for removing and preventing Obstructions and Annoyances, and for widening the Streets, Lanes, and other Passages within that Town, (which Commissioners are herein-after called the *Cambridge Commissioners*.) the several Powers and Duties aforesaid shall, in so far as they are consistent with the Laws under which the said *Cambridge Commissioners* act, be exercised by the *Cambridge Commissioners*.

The *Oxford Commissioners* and the *Cambridge Commissioners* to act as the Local Authority under this Act.

XI. The Fourteenth Section of the recited Act extends to Offences against any of the Provisions of this Act, so as to render the Offenders liable to the Penalties therein expressed, and any Person convicted of any Offence against the recited Act and this Act, or either of them, may, in default of Payment of the Penalty imposed, be imprisoned for any Term not exceeding Three Months in the Manner provided by Law in that Behalf.

As to Offences against this Act.

XII. Where a Keeper of a Common Lodging House, or a Person having or acting in the Care or Management of a Common Lodging House, is convicted of a Third Offence against the recited Act and this Act, or either of them, the Justices before whom the Conviction for such Third Offence takes place may, if they think fit, adjudge that he shall not at any Time within Five Years after the Conviction, or within such shorter Period after the Conviction as the Justices think fit, keep or have or act in the Care or Management of a Common Lodging House without the previous Licence in Writing of the local Authority, which

Conviction for Third Offence to disqualify Persons from keeping Common Lodging House.

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Acts may be executed by Justices at Petty Sessions.

Licence the local Authority may withhold or may grant on such Terms and Conditions as they think fit.

XIII. In a Case in which there are not Petty Sessions for a Place fifthly mentioned in Section Three of the recited Act, that Act and this Act may be executed within and for all and any Part of such Place by the Justices of the Peace acting in Petty Sessions in the Petty Sessional Division within which such Place is comprised.

As to Expenses of executing Act by Justices.

XIV. Where in any Place the recited Act and this Act are executed by Justices in Petty Sessions, the Expenses of and incident to the executing of the recited Act and this Act with respect to such Petty Sessional Division shall be borne by and paid out of the Rates for the Relief of the Poor of the several Parishes or other Places comprised therein in which any Common Lodging House is situate (except so far as there are other Monies applicable to the Purpose), and the Amount of such Expenses shall be ascertained and apportioned by such Justices, and shall be paid accordingly as they order.

APPENDIX.

No: 9.

"THE PUBLIC WORKS LOAN ACT, 1853."

After the greater portion of this Work had been printed, the following Act became the Law of the Land. The Act materially affects and alters the powers of borrowing money by the Local Commissioners from the Public Works Loan Commissioners, and of securing and paying off such money, given by the 113th and other Sections of the Public Health Act, incorporated by section 122 of the Local Act, ante, page 164, and all loans to the Cheltenham Commissioners from the Public Works Commissioners will be subject to the following Act.

ANNO DECIMO SEXTO AND DECIMO SEPTIMO
VICTORIÆ REGINÆ.

CAP XL.

AN ACT FOR ALTERING THE MODE OF REPAYMENT OF ADVANCES
BY THE PUBLIC WORKS LOAN COMMISSIONERS UNDER THE
PUBLIC HEALTH ACT, 1848, AND OTHER ACTS.

[8th July 1853.]

WHEREAS by the One hundred and thirteenth Section of the Public Health Act, 1848, it was enacted, that the Interest secured by any Mortgage authorized to be made under that Act should, unless otherwise provided, be paid half Yearly; and in order to pay off any Monies borrowed and secured by any such Mortgage, the Local Board of Health should in every year, until the same should be paid off, appropriate and set apart as a Sinking Fund such Sum as, together with the Interest from Time to Time to accrue thereon, would in the Period of Thirty Years amount to a Sum sufficient to repay the Monies borrowed and secured by any such Mortgage, and should from Time to Time cause such Sinking Fund and the Interest thereon to be invested in the Purchase of Exchequer Bills or other Government Securities, and to be increased by Accumulation in the way of Compound Interest or otherwise; and whenever the said Local Board should be enabled to pay off One or more of the Mortgages charged upon the same Property or Rate, and should not be able to pay off the whole of the Mortgages so charged, they should, in default of Arrangement between the Local Board of Health and the Mortgagees, decide by Lot the Order in which the same should be paid off: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

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1. Notwithstanding the said One hundred and thirteenth Section of the said Act, or any other Provisions therein, any Monies thereby authorized to be borrowed and secured by way of Mortgage may be borrowed from the Commissioners acting in execution of an Act passed in the Fifty-seventh Year of the Reign of His late Majesty King George the Third, intituled *An Act to authorize the Issue of Exchequer Bills and the Advance of Money out of the Consolidated Fund to a limited Amount, for the carrying on of Public Works and Fisheries in the United Kingdom, and Employment of the Poor in Great Britain, in manner therein mentioned*, and in execution of any Act or Acts for amending or continuing the same Act or Acts or any of them; and on any such Loan by the said Commissioners called "The Public Works Loan Commissioners" the Repayment of the Monies borrowed, with Interest thereon, shall be secured so as that the same, with the Interest thereon, shall be fully repaid by Instalments within the Period of Twenty Years from the advancing thereof, instead of by forming such accumulating Fund for the Payment of Monies borrowed as by the said Act is provided; and all the Powers and Provisions in the said Act contained for raising Rates for the forming a Fund for the repayment of Monies to be borrowed under the Provisions of the said Act shall apply and extend to the raising and paying any Monies which may be borrowed of the said Public Works Loan Commissioners, and the Interest thereon.

Advances by
Public Works
Loan Commis-
sioners to be re-
paid by Instal-
ments within
Twenty Years,
instead of by a
Sinking Fund in
Thirty Years.

57 G. 3. c. 34.

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c. 40.

Securities for
Advances to be
taken under the
Powers of Pub-
lic Works Loan
Acts.

II. In all Cases of Loans under the Public Health Act, 1848, and in all other Cases where any Loans or Advances shall hereafter be made or have already been made by the said Public Works Loan Commissioners to any Persons or Bodies having Power to borrow the same, or to any Persons or Bodies to whom the said Commissioners were, are, or shall be authorized or directed to lend any Monies under the Provisions of any Act or Acts whatsoever, then, notwithstanding the Provisions of the Public Health Act, 1848, or of any local or other Act, to the contrary, all Loans or Advances made or to be made shall be taken to have been made or to be made by the Public Works Loan Commissioners under the Provisions of the several Acts in force authorizing Loans by the said Public Works Loan Commissioners; and the Securities for such Loans shall be taken to have been made, and shall have such Priorities, and shall be subject to the same Powers, Authorities, and Remedies in all respects whatsoever, as if such Loans, Advances, and Securities had been made under the Authority of the several Acts in force relating to Loans to be made by the Public Works Loan Commissioners, and notwithstanding any Provision in any other Act now passed or to be passed contained as regards the Priorities or Mode of Payment of any Monies authorized or directed by any such Act to be borrowed, except so far as the same may by any such Act be altered, varied, or repealed by express Reference to this Act.

Loans may be
advanced at a
lower Rate of
Interest than
Five per Cent.

III. From and after the passing of this Act, it shall be lawful for the said Public Works Loan Commissioners and they are hereby authorized to make Advances at such Rate of Interest as they in their Discretion may think fit, not being less than the Rate of Three Pounds Ten Shillings *per Centum per Annum*, except that in case at the Time at which the said Commissioners shall resolve to make any Loan it shall appear that the Rate of Interest to be produced by an Investment in the Purchase of the Stock called the Three *per Centum* Consolidated Bank Annuities would be above Three Pounds Ten Shillings *per Centum per Annum*, then no such Loan shall be granted at a Rate of Interest less than the Rate which would be produced by an Investment in the Purchase of the said Stock; and such Rate of Interest for the Purpose aforesaid shall be ascertained by the said Commissioners by the average Price of such Stock on the Day before the resolving to make such Loan, if the Transfer Books shall on that Day be open, if not, then by the average Price of such Stock on the Day next before the closing of such Transfer Books; provided that if the Rate of Interest upon any Advances to be made by the said Commissioners be less than the Rate which by the Act or Acts herein-before recited or referred to the said Commissioners are now authorized or required to take, or in case any Loan the Interest whereof is so as aforesaid to be regulated by the Price of such Stock, then the Consent of the Commissioners of Her Majesty's Treasury for the Time being shall be obtained previously to resolving to make such Loan.

IV. Nothing in this Act contained shall extend or be deemed or construed to extend to alter, lessen, or abridge the Powers given to or vested in the Commissioners of Her Majesty's Treasury to reduce the Rate of Interest on any Loan advanced or to be advanced by the said Public Works Loan Commissioners, in the Manner and under the Circumstances in any of the Acts herein-before referred to particularly stated or mentioned.

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Powers of Treasury to reduce Interest not to be affected.

V. In citing this Act for any Purpose whatsoever it shall be sufficient to use the Expression "The Public Works Loan Act, 1853."

Short Title.

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